

SPECIAL REPORT NO. 28

• *Legal Aid Commission  
of Victoria*

• *Office of the  
Valuer-General*

NOVEMBER 1993

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Auditor-General  
of Victoria

**SPECIAL REPORT No. 28**

**LEGAL AID COMMISSION  
OF VICTORIA**

AND

**OFFICE OF THE  
VALUER-GENERAL**

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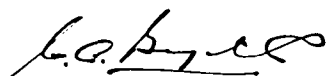
November 1993

The Honourable the Speaker  
Legislative Assembly  
Parliament House  
Melbourne, Vic. 3002

Sir

Under the provisions of section 48A of the *Audit Act* 1958, I transmit the Auditor-General's Special Report No. 28 on Legal Aid Commission of Victoria and Office of the Valuer-General.

Yours faithfully

  
C.A. BARAGWANATH  
*Auditor-General*

# PREVIOUS SPECIAL REPORTS OF THE AUDITOR - GENERAL

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2	· Works Contracts Overview - Second Report	June 1983
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## FOREWORD

This Report details the findings arising from audit reviews of the Legal Aid Commission of Victoria and the Office of the Valuer-General.

The audit of the operations of the Legal Aid Commission of Victoria was undertaken following a request from the Attorney-General to conduct a performance audit of the Commission as a matter of priority prior to an organisational review of the Commission by both the State and Commonwealth Governments.

The audit of the Office of the Valuer-General was carried out as part of the audit program which provides for a cyclical coverage of the operations of small government agencies.

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# Section 1.1

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# Executive Summary

## OVERALL AUDIT CONCLUSION

**1.1.1.1** The Legal Aid Commission of Victoria commenced operations on 1 September 1981 with the aim of providing legal aid to people in need in the most effective, efficient and economic manner. The Commission's strategic plan, developed in 1992, demonstrates its commitment to provide a range of services designed to identify, prevent and resolve legal problems and to ensure that the changing needs of clients are met both in the short and long-term. Since commencing operations, the Commission has been the major provider of legal services within Victoria and has a significant role to facilitate the efficient and effective operation of Victoria's legal system.

**1.1.1.2** The audit disclosed that the Commission is currently under substantial pressure to meet a greater level of demand for its services in a highly regulated operating environment, but is faced with finite resources. State Government funding to the Commission has increased substantially from \$2.1 million in 1989-90 to \$18.6 million in 1992-93 to compensate for the significant decline in funding provided through the Solicitors' Guarantee Fund.

**1.1.1.3** **The public no longer has the same access to legal aid and other Commission services due to the continuing increases in the cost of legal services provided to the Commission by private practitioners, and the increasing complexity and cost of the legal system.** The provision of legal assistance has fallen from 37 000 cases in 1986-87 to 30 000 cases in 1992-93. Other forms of assistance such as advice and information services have also been restricted in recent times.

**1.1.1.4** Significant scope exists for introducing initiatives which improve the economic, efficient and effective delivery of legal services, including implementation of:

- ▶ Medium and long-term planning supported by detailed action plans;
- ▶ Methods to evaluate and prioritise legal aid services to ensure that the priority needs of clients are properly targeted;
- ▶ A process that facilitates the provision of legal assistance to those most in need at a minimal administrative cost;

**Overall audit conclusion** - *continued*

- ▶ A fee structure or mechanism, such as lump sum fees per case and tendering that aims to achieve competitive market rates for private legal practitioner services;
- ▶ Co-ordinated and integrated information systems and processes that allow for timely and accurate information to be provided to management, particularly information relating to the cost of services currently provided. Until such information is available, the Commission will not be in a position to make resource decisions in an efficient and effective manner; and
- ▶ Opportunities for the Commission to increase the current level of revenue from other sources.

**1.1.1.5** It is pleasing to report that the Commission has implemented a number of initiatives in an attempt to address the increased cost of service delivery and improve access to legal services. The success of these initiatives and the adoption of the various recommendations contained in this Report, will be further enhanced if an integrated and coordinated approach is undertaken. This will require the Commission to prioritise the actions and establish a change program to facilitate implementation. It will also require extensive consultation with the Department of Justice and the legal profession. By implementing change in this manner, the Commission will be in a better position not only to contain but also to reduce the cost of providing legal assistance.

**1.1.1.6** The cost of operating legal aid commissions throughout Australia is shared in accordance with a Commonwealth/State Government agreement. Both Governments propose to undertake a joint review of the operations of the Commission in early 1994. This review presents a significant opportunity to reassess policy decisions in relation to the operations of the Commission and implement changed processes that will place the Commission in a stronger position to meet its obligations in the future. The review needs to assess the future direction of the Commission, the level of services to be provided and the need to implement alternative and more cost-effective methods of service delivery. In order to optimise the benefits of the review, its terms of reference should also aim to achieve agreement on both the Commission's future level of funding and the level of service provision in the medium-term.

## 1.1.2

### OVERALL RESPONSE BY CHAIRMAN OF THE LEGAL AID COMMISSION OF VICTORIA

*The Commission welcomes the audit report which supports and complements the Commission's internal review and change process. The report contains many useful recommendations and suggestions with which the Commission agrees. However, some recommendations, notably those relating to eligibility criteria and contributions policy, must be considered in the context of the current provisions of the Legal Aid Commission Act and government policy, including the terms of the Commonwealth/State funding agreement. These legislative and policy implications need to be addressed by governments before the recommendations concerned could be implemented by the Commission. This should be done as part of the proposed joint government review of the Commission.*

*In furtherance of its Strategic Plan, the Commission has commenced a major business redesign project. The purpose of this project is to fundamentally review and redesign the Commission's processes and programs to further improve efficiency and effectiveness. During the first stage of the project, the recommendations and suggestions of audit and the proposed joint government review will be evaluated and, where appropriate, implemented.*

### 1.1.3

## OVERALL RESPONSE BY SECRETARY TO THE DEPARTMENT OF JUSTICE

*The observations and recommendations of the Auditor-General in the report are noted. The recommendations are generally consistent with the stated intention to regard this performance audit as the first stage of a 2 stage review process in which a range of issues relating to the operations of the Legal Aid Commission of Victoria (LACV) and delivery of legal aid services to the Victorian community are examined.*

*The report confirms Department of Justice conclusions regarding priorities for development of improved cost benefit analysis of the current system of legal aid provision and offers a number of proposals for management improvement initiatives to be taken by the Board and management of the LACV.*

## SUMMARY OF MAJOR AUDIT FINDINGS

### ASSIGNMENT OF LEGAL AID

Page 33

- ▶ The administration cost of assigning legal assistance, which currently adds 20 per cent to the average cost of a case, was considered by audit to be excessive.

*Paras 1.4.11 to 1.4.13*

- ▶ Significant opportunity exists for the Commission to achieve savings through the implementation of a revised assignment process that separates the administrative process of approving legal assistance from the legal process associated with legal representation.

*Paras 1.4.14 to 1.4.17*

- ▶ The assignment process was unwieldy and uneconomic, involving a significant duplication of effort and record keeping.

*Para. 1.4.16*

- ▶ The broadness of the *merit test guidelines*, used for assessing legal aid eligibility, together with the absence of specific and objective criteria for their interpretation, has led to inconsistencies in the application of the guidelines within the Commission which can result in inefficiencies and inequities in approving legal aid applications.

*Paras 1.4.20 to 1.4.22*

- ▶ The *means test guidelines*, also used for assessing eligibility for legal assistance, do not allow the Commission to adequately determine an applicant's indigence and therefore may result in the Commission not directing scarce resources to the most deserving cases.

*Paras 1.4.28 to 1.4.33*

**COST OF LEGAL ASSISTANCE**

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- ▶ Since 1987-88, the overall real increase in the cost of cases has been around 82 per cent. In view of escalating costs and declining revenue, the Commission was compelled in 1991-92 to revise the eligibility guidelines which lead to a major reduction in the level of applications and approvals of legal assistance.

*Paras 1.5.7 to 1.5.10*

- ▶ The rising cost of cases is, in part, due to the increase in solicitor and counsel fees which have increased between 20 and 30 per cent in real terms since 1986-87. Other reasons for rising costs relate to the increasing complexity of the administrative and procedural requirements of the legal system.

*Para. 1.5.16*

- ▶ As a consequence of the overall higher cost of legal assistance the Commission can no longer provide assistance to some individuals who in the past would have received legal aid, particularly for cases involving family and civil law.

*Paras 1.5.18 to 1.5.19*

- ▶ The Commission is in the process of developing a number of initiatives, such as franchising, in order to counter the increasing costs of legal assistance.

*Paras 1.5.20 to 1.5.21*

- ▶ The highly regulatory environment in which the legal profession operates restricts the Commission's ability to obtain competitive market prices for legal services.

*Paras 1.5.22, 1.5.26*

- ▶ Considerable future cost savings could be achieved by tendering out a large proportion of Commission casework which, in the past, was automatically assigned to private practitioners.

*Paras 1.5.25 to 1.5.27*

- ▶ Over the past 5 years there has been a greater number of expensive legal cases, thereby adding substantially to the average cost of cases and consuming a larger proportion of the legal assistance budget.

*Paras 1.5.29 to 1.5.34***OTHER LEGAL AID SERVICES**

Page 59

- ▶ The Commission funded the private practitioner duty lawyer schemes at an average daily cost of \$324 compared with the cost incurred for the provision of similar services in the County Court by the Director of Public Prosecutions of approximately \$300 a day.

*Paras 1.6.7 to 1.6.9*

- ▶ There is an opportunity for the Commission to provide a more cost-effective advice service by consolidating all services under the responsibility of one unit.

*Paras 1.6.18 to 1.6.20*

**MANAGEMENT OF OPERATIONS**

Page 67

- ▶ Without substantial efficiency gains, the current level of government funding may be insufficient to maintain the existing levels of Commission services. In the absence of additional funding, the challenges imposed by increasing costs and pressure on revenue levels are likely to require substantial efficiency improvements in Commission operations, as well as the development and implementation of strategic and financial plans aimed at prioritising and redefining legal assistance.

*Paras 1.7.5 to 1.7.14*

- ▶ Existing performance indicators were inadequate for monitoring and reviewing the quality and effectiveness of services provided.

*Paras 1.7.15 to 1.7.19*

- ▶ The current structure and size of the Board needs to be reviewed with the dual objective of efficiently managing the Board and providing adequate legal and community representation.

*Paras 1.7.24 to 1.7.27*

- ▶ The use of solicitors, rather than paralegal staff, in assigning routine and straightforward matters indicates a degree of overservicing and wastage of professional resources.

*Paras 1.7.32 to 1.7.36*

- ▶ The current policy of assigning casework between in-house and private practitioners is inappropriate as it is not based on cost-effectiveness, but rather on ensuring that Commission staff operate at full capacity.

*Paras 1.7.41 to 1.7.49*

- ▶ The Commission has not yet implemented time and cost recording systems to effectively measure the cost of its services against services provided by private practitioners.

*Para. 1.7.47*

- ▶ The existing management information systems were unable to provide adequate information to management in relation to costs and service delivery to facilitate informed decision-making.

*Paras 1.7.62 to 1.7.68*



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# Section 1.2

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# Background

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## RESPONSIBILITIES AND FUNCTIONS OF THE COMMISSION

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**1.2.1** The Legal Aid Commission of Victoria is an independent statutory body established on 1 September 1981 under the provisions of the *Legal Aid Commission Act 1978*. Consistent with arrangements operating in the majority of States, the costs of the Commission are shared on an agreed basis by the State and Commonwealth Governments.

**1.2.2** Key legislative functions of the Commission include:

- ▶ the provision of legal aid in the most effective, efficient and economical manner, and in a way which dispels fear and distrust;
- ▶ determination of the matters for which legal assistance may be provided including the allocation of work between Commission officers and private practitioners and the establishment of guidelines in relation to the provision of legal aid; and
- ▶ informing the public of legal services.

**1.2.3** The broad functions outlined in the Act do not provide specific direction on the type of matters to be assisted (that is criminal, civil and family law) and the form of legal aid to be provided. Accordingly, it has been necessary for the Commission to define its objectives and determine the type and mix of legal aid services. In this regard, the Commission in its February 1993 strategic plan, established its overall mission as *"... to ensure that people in need obtain justice, by providing high quality legal assistance, duty lawyer services, legal advice and information and education in a responsible, fair, and sensitive manner, and by promoting the reform of laws and procedures which inhibit justice"*.

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## LEGAL AID SERVICES

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**1.2.4** The Commission operates through a central Melbourne office, as well as 9 regions situated throughout Victoria. In addition to employing more than 340 staff, including solicitors and paralegals, it contracts the services of private legal practitioners to provide both legal representation on behalf of clients and duty lawyer services at courts. The Commission provides legal aid in 4 major areas, namely:

- ▶ the provision of legal representation, referred to by the Commission as legal assistance grants;
- ▶ duty lawyer services;
- ▶ legal advice; and
- ▶ information and education services.

## **Legal representation**

**1.2.5** A major aspect of legal aid is the provision of legal representation for financially and socially disadvantaged people. Representation is provided for a range of legal matters covering criminal, civil and family law. Applications for assistance may be submitted to the Commission's Melbourne or regional offices, or through private solicitors on behalf of clients. The assessment of applications for legal assistance is undertaken by the assignments division in the Melbourne office or by the Commission solicitors and supporting staff at regional offices.

**1.2.6** Legal representation may be provided by either Commission salaried solicitors or private practitioners. In 1992-93, Commission solicitors were assigned some 8 000 or 27 per cent of the 30 000 approved applications.

## **Duty lawyer services**

**1.2.7** Duty lawyer services relate to the attendance of solicitors at the magistrates, children's, county and family courts to provide immediate legal advice or representation to unrepresented persons. This type of advice or representation does not require a formal application for legal assistance even though in certain cases solicitors may make subsequent appearances for the person concerned following an application for legal assistance. Duty lawyer services are provided by both Commission legal staff and private practitioners funded by the Commission.

## **Legal advice**

**1.2.8** Legal advice is provided by the Commission at its Melbourne and regional offices through clinics or by appointment, and by visiting services to prisons, youth centres, psychiatric hospitals, community service offices and accommodation units. During 1992-93, more than 34 000 interviews associated with the provision of legal advice were held.

## **Information, education and community legal services**

**1.2.9** Legal information and education is provided to the community through telephone information services, including non-English services, the distribution of publications and videos, the funding of community legal centres and projects, the conduct of information sessions and seminars, and contact with community organisations.

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**FUNDING OF LEGAL AID**

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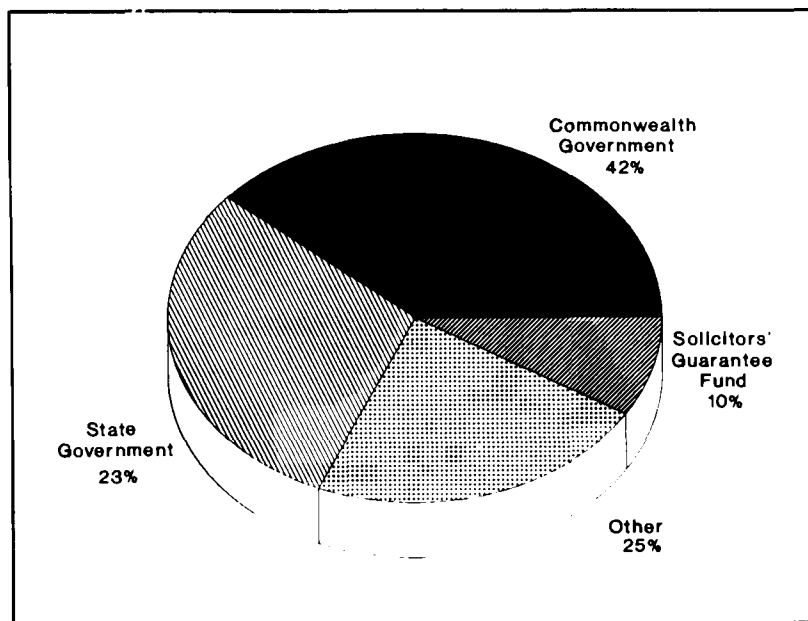
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**Background**

**1.2.10** To meet the cost of legal aid services, the Commission is heavily reliant on funding from the Commonwealth and the State Governments and distributions from the Solicitors' Guarantee Fund, a fund administered by the Law Institute and established to meet the cost of certain claims against solicitors and to provide funding to certain organisations including the Commission. In 1992-93, revenue from these sources totalled \$61 million or 75 per cent of the total funds raised by the Commission. The balance of some \$20 million or 25 per cent was earned from other sources with contributions from clients representing the major component.

**1.2.11** Chart 1.2A illustrates the sources of Commission revenue for 1992-93 and its reliance on government funding.

**CHART 1.2A**  
**SOURCES OF REVENUE FOR FUNDING LEGAL AID, 1992-93**



**1.2.12** Government funding to the Commission is determined under the terms of a 1989 agreement between the Commonwealth and State Governments. This agreement requires the Commonwealth to fund 55 per cent and the State 45 per cent of the **net operating expenditure** of the Commission after the deduction of expenditure met from other revenue. State Government funding is then reduced by amounts received from the Solicitors' Guarantee Fund. The Commonwealth and the State Governments may also provide additional grants to the Commission for particular purposes, including expensive legal cases and specific government initiatives such as family mediation, the criminal delay reduction program and child support schemes.

**1.2.13** Throughout this Report, unless otherwise stated, financial figures provided have been adjusted to reflect the purchasing power of the dollar in 1992-93 and as such financial information has been expressed in real terms.

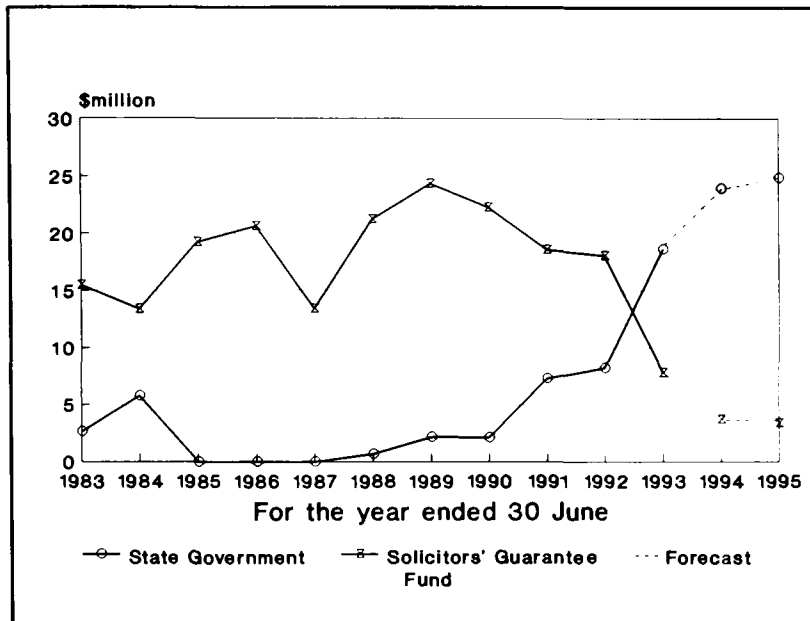
### **Changes in levels of government funding**

**1.2.14** Since the first full year of operations in 1982-83, total Commonwealth and State Government funding to the Commission, including contributions from the Solicitors' Guarantee Fund, has significantly increased in real terms from \$42 million to \$61 million in 1992-93, an increase of over 45 per cent. The additional funding has provided for:

- ▶ the expansion of services including the establishment of regional offices; and
- ▶ expensive legal cases which have become more prevalent in recent years.

**1.2.15** Chart 1.2B illustrates the trend in the level of State Government funding and distributions from the Fund for the period commencing 1982-83.

**CHART 1.2B**  
**STATE FUNDING AND SOLICITORS' GUARANTEE FUND DISTRIBUTIONS**  
 (in real terms)



**1.2.16** The above chart indicates that until 1989-90 the contributions required from the State Government were minimal, due to the receipt of substantial amounts from the Fund. However, distributions from the Fund fell from a peak of \$24 million in 1989-90 to only \$7.8 million in 1992-93. As a result, it has been necessary for the State to provide an increasing level of funding, rising from \$2.1 million in 1989-90 to \$18.6 million in 1992-93, with this upward trend expected to continue in future years.

**1.2.17** A working party established by the then Attorney-General's Department to review the Solicitors' Guarantee Fund, determined that the decline in funds available from the Fund had principally resulted from:

- ▶ fewer trust transactions occurring as a result of adverse economic conditions;
- ▶ low returns on Fund investments;
- ▶ reduced use of trust accounts by solicitors due to improved and quicker methods of funds transfer; and
- ▶ the need to retain substantial amounts in the Fund to meet potential liabilities in respect of legal proceedings against solicitors.

**1.2.18** Although distributions from the Fund started to decline from 1989, it was not until 1992 that an attempt was made by the then Attorney-General's Department to address the situation. However, by this time, the success of any action taken was limited as income from the Fund had declined substantially resulting in a greater call on State Government funding.

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## COMMISSION EXPENDITURE

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**1.2.19** In performing its functions in 1992-93, the Commission incurred total expenditure of \$71 million. This represented a real reduction of \$9.7 million (12 per cent) from 1991-92, due mainly to:

- ▶ a reduction in the number of grants of legal assistance;
- ▶ a lower level of doubtful debts provided in 1992-93; and
- ▶ lower staff levels following departures in 1991-92 and acceptances of voluntary departure packages during 1992-93.

**1.2.20** Notwithstanding the reduction in expenditure in 1992-93, there has been an overall 10 per cent increase in expenditure in real terms, from \$65 million to \$71 million, since 1986-87. The key reasons for this increase are:

- ▶ The higher average cost of legal matters assisted by the Commission;
- ▶ Substantial overall increase, despite a reduction of 10 per cent in March 1992, in the rates paid to private practitioners assisting in criminal matters. The Commission advised that the rates have recently been increased by 5 per cent; and
- ▶ An increase in services provided by the Commission including duty lawyer, legal advice interviews and telephone services.

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## CHANGES IN THE LEGAL SYSTEM THAT IMPACT ON FUTURE COSTS

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**1.2.21** A factor that can significantly impact on the future level of legal aid and the associated costs of service provision is the 1993 amendment to the *Crimes Act 1958* which was made for the purpose of facilitating the efficient conduct of criminal trials. This amendment provides that the refusal of legal assistance to a person is not grounds for adjournment or stay of a trial. **It further provides that where a court considers that a fair trial requires the accused to be represented and that person cannot afford legal representation, the Commission can be ordered by the court to provide such assistance.**

**1.2.22** Consequently, potential now exists for courts to significantly increase the cost of legal aid provided by the Commission by requiring it to either assist in cases that it has determined that it cannot fund due to insufficient resources, or to fund cases that are currently excluded by Commission guidelines. Of particular concern are cases, costing more than \$5 000, and extending beyond one year, which may result in substantial reductions in the level of assistance available for other cases that satisfy assistance guidelines, in that year and following years.

**1.2.23** Audit was advised by Commission management that to date the courts have applied the legislative amendment in 8 cases. Nevertheless, the Commission considered that it was too early to assess its full impact on its financial operations. **Given the potential impact of this legislative amendment, it is important that the Commission in conjunction with the Department of Justice, develop effective strategies to meet any significant increase in future costs.**

- *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission is represented on the Criminal Trial Procedures Committee. The Committee comprises representatives of the Attorney-General, the Chief Justice, the Chief Judge, the Commonwealth Director of Public Prosecutions, the Victorian Director of Public Prosecutions, the Victorian Bar Council, the Law Institute of Victoria and the Legal Aid Commission of Victoria. The Committee's terms of reference include monitoring the impact of the amendment and identifying procedures and practices which militate against criminal trials being heard expeditiously and economically*

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## **FUTURE FUNDING IMPLICATIONS**

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**1.2.24** The increasing cost of operations and the pressures on the level of government and internally generated funding have been key factors contributing to a significant reduction in the level of service provision by the Commission. This is evidenced by Commission action in recent years to reduce the number of grants provided for legal assistance by tightening eligibility criteria. The number of grants of legal assistance has declined significantly from a total of 37 000 in 1986-87 to 30 000 in 1992-93 and is now at the lowest level since the first full year of operations. The reduction in the number of legal assistance grants has resulted in many types of civil and family law matters no longer receiving assistance.

**1.2.25** **Given the increasing cost pressures, the current level of government funding is likely to be insufficient to sustain the level of services currently provided by the Commission. In the absence of additional funding, maintenance of levels of operations can best be achieved through substantial efficiency improvements in Commission operations in conjunction with the implementation of policies which clearly define the Commission's priorities for the level and type of services provided.**

**1.2.26** It is pleasing to report that since completing the audit, the Commission has advised that due to efficiency improvements in providing legal services, an increase of up to 10 per cent in the number of legal assistance applications approved in future years may be feasible.

- *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission anticipates being able to increase grants by 3,000 per year or 10 per cent from December 1993. The priority is to increase grants in family and civil cases which have declined substantially since 1990.*



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# Section 1.3

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# Conduct of the Audit Review

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## AUDIT OBJECTIVES

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**1.3.1** The principal objective of the audit was to review the effectiveness, efficiency and economy of the management and operations of the Commission. Specifically, the audit focused on:

- ▶ the impact of changes in funding levels on the provision of legal aid;
- ▶ the role of the Commission in the justice system;
- ▶ the appropriateness of management structures and processes for the approval and provision of legal aid;
- ▶ the effectiveness of the delivery of legal aid services; and
- ▶ the level of compliance with legislative requirements, government policy and funding agreements.

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## AUDIT SCOPE

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**1.3.2** The scope of the audit included a review of:

- ▶ strategic planning undertaken to achieve the implementation of current policies and the future directions of the Commission;
- ▶ the relationships of the Commission with other relevant agencies, such as the Director of Public Prosecutions, and the impact of Commission operations on the justice system;
- ▶ the impact of funding agreements, the level of government funding and internally generated revenue on the current and future operations of the Commission;
- ▶ management systems and controls;
- ▶ the cost-effectiveness of in-house services, including the relative effectiveness of legal representation provided by in-house solicitors against private practitioners;
- ▶ education, advice and other services provided by the Commission;
- ▶ guidelines and processes for the assessment, provision, administration and payment of grants for legal assistance; and
- ▶ legislation, government policy and funding agreements, and the means by which the Commission complies with these requirements.

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## **REASONS FOR UNDERTAKING THE AUDIT**

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**1.3.3** The audit of the operations of the Commission was undertaken following a request by the Attorney-General for a performance audit to be undertaken as a matter of priority.

**1.3.4** The major concern raised by the Attorney-General was the cost-effectiveness of administrative processes within the Commission which has been compounded by the decline in the availability of funding for legal aid from the Solicitors' Guarantee Fund, requiring higher levels of funding by the State Government. The Attorney-General indicated that the results of the audit would provide a basis for a proposed organisational review by the State and Commonwealth Governments in the near future.

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## **ASSISTANCE PROVIDED TO AUDIT**

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**1.3.5** Management and employees of the Commission provided significant support and assistance throughout the audit. Considerable assistance was also provided by representatives of the Department of Justice, the various courts, professional legal associations, and community and welfare groups.

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# Section 1.4

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# Assignment of Legal Aid

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## OVERVIEW

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**1.4.1** The assignment process is the function of assessing applications and approving the provision of legal assistance. In recent years, as a consequence of financial constraints, the Commission has tightened eligibility criteria under its *Legal Assistance Guidelines*, resulting in a reduction in both applications received and approvals given for legal aid.

**1.4.2** The audit concluded that the assignment process was complex, unwieldy and uneconomic, with significant duplication of effort and record keeping. The assignment process adds approximately 20 per cent to the average cost of a case.

**1.4.3** It is considered that the high cost of the assignment function is principally attributed to the requirement under the merit test guidelines for the assignment officer to assess and make a judgement on all the relevant legal facts of the case, including the likely interpretation of these facts by the courts and the probable outcome of the case. The same detailed process is then duplicated to a significant extent by the solicitor assigned to the case.

**1.4.4** Further, the existing merit testing arrangements which are a major component of the assignment process are broad and require the assignment officer to make personal judgements on the legal merit and individual circumstances of each case, a factor which can lead to inconsistencies in the assessment of applications of assistance.

**1.4.5** The existing *means testing arrangements* are also considered inadequate as the Commission is not in a position to substantiate declarations of means made by applicants, reducing the Commission's ability to ensure the equitable distribution of available funds.

**1.4.6** In view of the high costs and complexity of assigning casework, the inefficiencies in the assignment process together with the anomalies that occur as a result of existing means and merit testing arrangements, the Commission needs to review the mechanism for assessing applications and administering grants of legal assistance. The review should examine the feasibility of simplifying the assignment function by carefully separating the administrative process of assigning assistance from the legal process associated with presenting a person's case in court.

**1.4.7** Further, the revised assignment process should incorporate:

- ▶ means testing arrangements based on standard forms of verification, which place the onus of proof on the applicant;
- ▶ merit testing arrangements based on clear and specific criteria which categorise cases into matter types;
- ▶ the introduction of revised solicitor remuneration arrangements which enable the establishment of a *set fee* per case or *lump sum fee scales* per case for most categories of law matters; and
- ▶ a computerised information system which efficiently caters for the revised assignment process.

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**BACKGROUND**

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**1.4.8** The Commission's *Legal Assistance Guidelines* consist of a handbook setting out the types of matters for which legal assistance may be granted and providing the basis for assessing an applicant's eligibility for assistance. In summary, all applications are assessed on the basis of:

- ▶ the purpose for which legal assistance is to be granted (the type of matter);
- ▶ the applicant's financial position (the means test); and
- ▶ the likelihood of winning the case, or the benefit likely to accrue to the applicant if legal assistance was granted (the merit test).

**1.4.9** The assignment function is currently decentralised, with the 9 regional offices and the Melbourne office responsible for assessing applications for legal assistance in accordance with the Commission's guidelines. Casework is then allocated either internally to salaried solicitors or externally to private practitioners.

**1.4.10** Table 1.4A provides a comparison of approvals and refusals by type of law, family, civil and crime, for the period 1988-89 to 1992-93. Analysis of the data in relation to applications of assistance disclosed that:

- ▶ the overall refusal rate has increased from one in 5 applications in 1988-89 to one in 4 applications in 1992-93;
- ▶ the total number of applications assessed fell by more than 4 000 or 9 per cent;
- ▶ approvals in the family and civil law areas showed a marked decline, with criminal law the only growth area;
- ▶ criminal cases made up 77 per cent of all approvals; and
- ▶ 86 per cent of all criminal cases are approved, with around 95 per cent of all indictable matters receiving legal assistance.

**TABLE 1.4A**  
**APPLICATION GRANTS ASSESSED**

<i>Type of matter</i>	<i>Assessed applications</i>	<i>Share of total</i>	<i>Approvals</i>	<i>Share of total</i>	<i>Refusal rate</i>
	<i>(no.)</i>	<i>(%)</i>	<i>(no.)</i>	<i>(%)</i>	<i>(%)</i>
Family -					
1988-89	12 827	29.0	9 906	27.9	22.8
1989-90	13 209	28.9	9 723	26.7	26.4
1990-91	13 748	28.0	8 704	24.1	36.7
1991-92	11 036	25.8	6 328	20.9	42.7
1992-93	9 748	24.3	5 508	18.3	43.4
Civil -					
1988-89	6 974	15.8	3 996	11.2	42.7
1989-90	7 251	15.9	4 205	11.6	42.1
1990-91	7 405	15.1	3 735	10.3	49.6
1991-92	4 911	11.5	1 685	5.6	65.7
1992-93	3 691	9.2	1 509	5.0	59.1
Crime -					
1988-89	24 410	55.2	21 646	60.9	11.3
1989-90	25 254	55.2	22 393	61.7	11.3
1990-91	28 006	56.9	23 731	65.6	15.3
1991-92	26 833	62.7	22 216	73.5	17.2
1992-93	26 699	66.5	23 011	76.6	13.8
<b>Total -</b>					
<b>1988-89</b>	<b>44 211</b>	<b>100</b>	<b>35 548</b>	<b>100</b>	<b>19.6</b>
<b>1989-90</b>	<b>45 714</b>	<b>100</b>	<b>36 321</b>	<b>100</b>	<b>20.5</b>
<b>1990-91</b>	<b>49 159</b>	<b>100</b>	<b>36 170</b>	<b>100</b>	<b>26.4</b>
<b>1991-92</b>	<b>42 780</b>	<b>100</b>	<b>30 229</b>	<b>100</b>	<b>29.3</b>
<b>1992-93</b>	<b>40 138</b>	<b>100</b>	<b>30 028</b>	<b>100</b>	<b>25.1</b>

## **COST AND PROCESS OF ASSIGNMENT**

### **Cost of assignments**

**1.4.11** Audit found that due to the absence of time recording systems within the Commission, a precise costing of the assignment function was not possible. However, a study undertaken by the Commission placed the cost of the assignment function in 1991-92, at approximately \$11 million or 21 per cent of expenditure on legal assistance assigned to private and salaried practitioners. For 1992-93, the estimated cost of the assignment function was also \$11 million or 20 per cent of expenditure on grants of legal assistance. Based on the average case cost of \$1 250, this translates to a cost of \$250 for each assignment.

**1.4.12** Given the high overall approval rate shown in Table 1.4A, audit is of the opinion that the revised and enhanced assignment function, outlined in paragraphs 1.4.14 to 1.4.17 below, could be implemented to improve efficiency without significantly increasing the level of risk associated with approving applications which do not meet the *merit test guidelines*. In addition, the assignment process could be further enhanced by incorporating standard forms of means verification and lump sum fees. Such initiatives would prove more cost-effective and efficient than the current system which requires the amount of each grant **to be individually determined** and inhibits the introduction of set fees per case. Cost savings from this initiative should enable the Commission to provide a greater level of services to those in need.

**1.4.13** In conjunction with these initiatives, the Commission should also investigate the feasibility of categorising all applications in a manner that allows an application to be assessed against clear, objective and specific assignment criteria (refer paragraphs 1.4.18 to 1.4.22 of this Report). Such a process, which could be readily computerised, would also allow the Commission to introduce set fees for a high proportion of the assignment task.

### Assignment of applications for legal aid

**1.4.14** The existing guidelines for the assignment of assistance require the assignment officer to assess and make judgements on all the legal facts of the application. However, detailed and objective criteria on which to base this judgement had not been developed.

**1.4.15** Audit concluded that the assignment process, with its wide range of administrative tasks, is unwieldy, uneconomic and displayed significant duplication of effort and record keeping. The most significant element affecting the efficiency of this process is the current inappropriate separation of functions between the administrative process of assigning assistance and the subsequent legal process. This is due to the existing guidelines requiring a preliminary assessment of facts relating to the case during the assignment process. **This results in significant duplication of effort with the assessment of facts and circumstances pertaining to the case also undertaken by in-house solicitors or private practitioners as part of their casework preparation.** This duplication of effort arises from the broadness of the *merit test guidelines* which require considerable legal and personal judgement before an application is approved rather than an objective determination of whether an application has merit based on clear and specific criteria. In essence, the guidelines require the assignment officer to determine the probable case outcome, a responsibility that also rests with the in-house solicitor or private practitioner assigned the case (also refer paragraphs 1.4.18 to 1.4.22 of this Report).

**1.4.16** Other inefficiencies identified by audit include:

- ▶ significant duplication of administrative effort, e.g. the applications clerk handles indictable criminal matters on 3 separate occasions rather than one person finalising the task;
- ▶ the maintenance of a significant number of manual records, e.g. example criminal law statistics, that are also entered on the Computerised Legal Aid Services System (CLASS);



- ▶ the large number of manual processes which are adaptable to full computerisation, e.g. the individual assessment of applications, file creation, compilation of daily and monthly statistical reports etc; and
- ▶ the under-utilisation of the CLASS system by assignment officers in relation to their allocated case workload.

**1.4.17 In order to achieve cost-efficiencies, the Commission needs to review the assignment process with the aim of establishing clear and objective criteria for assigning cases in order to minimise the duplication of effort that currently occurs when the case is then assigned to a solicitor.**

- *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission agrees that the cost of the assignment process should be reduced. However, in addition to the functions mentioned by audit, the assignment process includes dealing with reconsiderations and reviews of decisions, assigning cases to private or in-house practitioners, monitoring progress of cases, dealing with requests for extensions of assistance and payment of interim accounts, assessment and payment of costs at the conclusion of cases, and the assessment and recovery of contributions. The whole process currently adds approximately 20 per cent to the cost of the average case.*

*The assignments process is being reviewed as part of the Commission's process redesign project (see Overall Response in Executive Summary). The objective of the redesign project is to streamline and reduce the cost of the assignment and other processes. The matters raised by audit will be considered in this review.*

*The review of the assignments process will investigate all of these matters. The Commission is committed to ensuring that the assignments process becomes as efficient and effective as possible. However, previous experience suggests that categorising all applications in the way suggested may not be feasible.*

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## LEGAL ASSISTANCE GUIDELINES

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### Merit Test Guidelines

#### Background

**1.4.18** As part of the assessment process, the Commission's legislation requires a judgement to be made of the merit of each case. The decision to provide legal assistance on the merit of the case is the sole responsibility of the assignment officer under delegated authority. The assignment officer must determine whether the applicant has a "... reasonable cause of action or defense" and whether it is appropriate for the individual to receive legal aid in the "... particular circumstances of the case".

**1.4.19** The merit test guidelines in their present form require assignment officers to evaluate the merit of applications based on the individual circumstances by making legal and personal judgements on a range of issues including:

- ▶ the prospect of success and/or the nature of the sentence;
- ▶ the prospect of acquittal on all charges;
- ▶ the quantum of any fines and the potential effect of legal representation on that quantum;

- ▶ the nature of the proceedings;
- ▶ **the importance of the case to the applicant;**
- ▶ the significance of previous offences on the outcome of legal proceedings, and
- ▶ **the characteristics of the opponent** and his/her likely action, e.g. action in custody and access cases.

*Inconsistencies in the application of the merit test guidelines*

**1.4.20** Audit discussions and examination disclosed that inconsistencies arose between various officers in the application of the merit test guidelines. **This was due to the absence of detailed specific and objective criteria to be applied in the assignment process.** The fundamental problem in achieving uniformity of approach lies in the fact that the merits test is ultimately dependent on the assignment officer's determination of whether it is *reasonable*, in the circumstances, to provide legal aid and the need to make judgements on other factors such as the gravity of the consequences which may result from conviction, the nature of the proceedings etc. Accordingly, the professional competency, training, experience and the personal principles or values of the assignment officer may influence the provision of assistance.

**1.4.21** The inconsistency in the application of merit principles is also illustrated by an analysis of statistics relating to the review of legal aid applications for assistance and extensions of assistance submitted to the 3 Legal Aid Review Committees. **This analysis revealed that in 1992-93, over 36 per cent of decisions brought before the Committees for review were reversed.** Given that a decision to refuse legal assistance requires consensus on the part of 3 assignment officers (refer paragraph 1.4.35 of this Report) prior to reconsideration by the Legal Aid Review Committees, the number of decisions reversed by these Committees is significantly high. In audit opinion, notwithstanding that cases before the Committees are likely to be more complex, the level of reversal reinforces the need for detailed and objective criteria to facilitate greater consistency in the interpretation and application of the merits test. Further, given that these Committees review only those decisions where legal assistance has been denied, there is a prospect that there could be many inconsistencies among those applications for which legal assistance is in fact granted.

**1.4.22** **In order to achieve consistency in the application of the legal aid guidelines, detailed and objective criteria for assigning specific legal matters need to be developed. Further, the Commission's recent proposal for the delegation of its powers to approve the provision of legal assistance to private practitioners acknowledges, in part, that there is merit in separating the assignment process from service delivery, that is the legal casework.**

■ *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission is required to comply with the Legal Aid Commission Act. The Act requires the Commission to assess each application on its merits. Administrative law principles also require that decision-makers exercise discretion based on the circumstances of the individual case. This means that guidelines cannot absolutely bind the decision-maker*

*The guidelines themselves provide the criteria for determining merit but cannot be so detailed or specific that they prevent the proper exercise of discretion.*

*The statistics can be seen in another light. In 1992-93, 40,053 applications were assessed; 10,025 refused; 410 decisions were reviewed and 147 decisions were reversed. This suggests that the vast majority of decisions to refuse (98.6 per cent) were sound.*

*Separation of the assignment and casework functions means ensuring those who determine eligibility (apply the means and merits tests) are not those who perform the casework. Franchising involves delegation to the caseworker of means and merit testing while the Commission would continue to determine policy and guidelines. As franchising involves a merging rather than separation of functions, the principle of separation has to be reassessed in the context of the advantages of franchising.*

## **Means testing**

### *Background*

**1.4.23** Eligibility for legal aid has always been dependent on some form of means testing. The main aim of means testing is to determine, on the basis of an applicant's disposable income and capital, whether that person is eligible within the limits set out under the guidelines for either free or subsidised legal aid.

**1.4.24** Although the means test is based on a model that has been developed by all Legal Aid Commissions in Australia, the application of the principles and financial limits can vary between the States. Two factors are considered under the Commission's means test when determining whether an applicant is financially eligible to receive legal assistance, namely:

- ▶ net assessable income after allowing for deductions such as income tax, housing costs and dependant allowances; and
- ▶ assessable assets.

### *Establishing income thresholds*

**1.4.25** To determine whether an applicant qualifies for assistance the Commission has established income thresholds. An analysis of these thresholds disclosed that, assuming maximum allowable deductions and subject to satisfying the asset tests, an applicant can qualify for any level of free legal assistance, where gross annual income does not exceed \$33 000. In addition, a person earning gross annual income of \$46 000 would also qualify for any level of legal assistance subject to an initial contribution, and an applicant earning \$54 000 a year would qualify for legal assistance, subject to a contribution, for matters expected to cost more than \$750.

**1.4.26** While it may be appropriate for the Commission to fund expensive cases in such circumstances, audit questions whether these people would experience undue hardship from meeting costs associated with minor matters requiring less expensive legal representation.

- *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*Applicants in the situations described would not necessarily receive free legal assistance. Costs incurred would be secured by a charge if any real estate was owned and the applicants may also have to pay a contribution on assets. In the 1993 client survey conducted by the Commission, less than 14 per cent of applicants had an after tax income greater than \$300 a week.*

#### *Application of means testing guidelines*

**1.4.27** To enable the assessment of the financial standing of applicants, legal aid applicants are required to disclose in the *Application for Legal Assistance*, financial information in relation to assets, income, weekly expenses and money owing, as well as providing documentary proof of means.

**1.4.28** However, to a large extent, the system relies on the individual's integrity for making accurate statements regarding means and other personal circumstances. Further, the Commission's application form does not provide authorisation by the applicant for the Commission to make independent enquiries to verify information supplied by the applicant in relation to income and assets. Generally, declared income, assets and expenses are accepted by the Commission at face value with minimal and often inadequate verification of the authenticity of the information provided. This weakness was evidenced by instances identified by audit of incorrect declarations and inadequate documentary proof of means. Further, in potentially expensive cases, it would appear to audit that there is a need for a far more vigorous verification of financial status.

**1.4.29** For example, in one case, 5 foreign nationals charged with drug trafficking, applied for and received assistance estimated to cost approximately \$200 000 in 1993. The review of the case history revealed that:

- ▶ Statements made by the applicants that they were without financial means were accepted on face value. The Commission failed to obtain evidence on the authenticity of these statements either through the applicants themselves or through the appropriate foreign embassy; and
- ▶ One of the applicants remained eligible for assistance despite declaring ownership of a restaurant and his own home. The Commission did not verify the value of these assets.

**1.4.30** The Commission's decision to support and fund the applicants' claim of indigence, as well as fund the case, is hard to comprehend given that no verification of means had been undertaken by the Commission.

#### *Proof of identify*

**1.4.31** Currently, there is no requirement for applicants for legal assistance to prove their identity. This aspect is inconsistent with other government agencies which provide concessional benefits and require a number of documents, for example an Australian passport, driver's licence and group certificate, to be provided to confirm the identity of applicants.

**1.4.32** In audit opinion, wherever practical, the Commission should confirm the identity of an applicant in order to overcome both the risk associated with providing aid to someone who does not meet the guidelines and to assist later in the follow-up of any outstanding contributions.

### Conclusion

**1.4.33** Given the significant resourcing that would be required to effectively administer the current means test arrangements, consideration needs to be given to a simplified means test, which places the onus of proof on the applicant, similar to that used by other government agencies providing welfare benefits. Information required could include:

- ▶ evidence of identification;
- ▶ tax assessment certificates;
- ▶ statement of benefits from the Department of Social Security;
- ▶ audited financial statements where business and trusts are involved; and
- ▶ authorisation of the Commission to undertake any investigation deemed necessary into the applicant's financial affairs.

■ *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission agrees with audit's view that a more vigorous verification of means is required in relation to potentially costly cases.*

*In criminal cases the Commission generally accepts that the interest of the prosecuting authority in determining the defendant's identity is such as to make further inquiry by the Commission pointless. In most other cases, applicants are involved in litigation where the applicants themselves, their solicitors and the other parties have a high degree of interest in correctly establishing identity.*

*The Commission agrees that the means test should be as simple as possible. However, since the Commission's means test is based on a national model, to depart from the model might conflict with the national principles of legal aid adopted by the Commonwealth Government and all legal aid commissions. The principles provide for "practical consistency of access to legal aid services throughout Australia". Further, the National Legal Aid Advisory Committee in its July 1990 report "Legal Aid for the Australian Community" recommended the adoption nationally of uniform eligibility criteria including merits and means tests.*

*Furthermore, in considering the level of verification which should be required, regard must be had to the administrative efficiency of additional verification requirements, the magnitude of the risk sought to be avoided and the effect of additional requirements on the accessibility of legal assistance.*

*A large proportion of applicants for legal assistance are not only poor but are also further disadvantaged by their age, by coming from non-English speaking backgrounds, having an intellectual or psychiatric disability, or a drug or alcohol addiction. The requirement for substantially increased documentary verification of means and placing the onus of proof on applicants would make it more difficult for such people to comply with the eligibility requirements and obtain legal assistance. The current verification requirements were implemented following discussions with external financial auditors in July 1991.*

*In considering the stringency of validation requirements regard must also be had to the amount and nature of assistance provided to assisted persons compared with recipients of other government benefits including the fact assisted persons are required to repay the assistance where they own property, receive an award of damages or settlement, or otherwise have sufficient means to pay a contribution. The average cost of legally assisted cases is \$1 400 and the majority of cases cost no more than about \$400. These outlays are small relative to the amounts of public moneys paid to other government welfare recipients such as pensioners.*

*Ultimately governments must determine whether the additional requirements recommended by audit are warranted having regard to the level of risk that ineligible people may receive legal assistance and the need to reduce barriers to needy people obtaining access to legal services.*

*The Commission believes the balance it has maintained between the need to satisfy itself that applicants are eligible for assistance and accessibility is appropriate. However, the Commission agrees with audit that there is a need to improve the level of compliance with existing validation requirements.*

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## **APPROVAL / REFUSAL OF LEGAL ASSISTANCE**

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**1.4.34** The approval of legal assistance is the sole responsibility of individual assignment officers, operating within the scope of the *Legal Assistance Guidelines* and limits of delegated authority. However, where an application for legal assistance is refused, the decision must be confirmed by a second assignment officer. Further, a person who is dissatisfied with a subsequent decision to refuse assistance may request that the decision be reviewed by one of the 3 Legal Aid Review Committees.

**1.4.35** The review process is intensive, with 3 officers considering the same matter up to 4 times (twice by the assignment officer and once each by the 2 officers ratifying the initial refusal and the subsequent confirmation of the decision). Should this matter require further consideration by one of the Legal Aid Review Committees, which comprises 5 members, a total of 8 officers will have reviewed a decision to refuse legal assistance as compared with the one officer required to approve assistance.

**1.4.36** In view of the above process, audit considers that the assessment process is biased towards the approval of legal assistance rather than its refusal, and by its very nature places subtle pressure on staff to approve assistance. Further, an assignment officer's personal involvement with a particular matter or client together with the absence of clear criteria for the application of the guidelines, could impair objectivity resulting in the granting of legal assistance or an extension of assistance where it may not be entirely justified.

**1.4.37** In order that increasingly scarce legal aid funds can be applied towards the most deserving cases, the existing review process needs to be considered in terms of its cost and objectivity.

■ *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission's procedures for reconsideration and review are governed by the Legal Aid Commission Act. Legal Aid Review Committees are comprised of members independent of the Commission.*

*The Commission's practice has been to achieve as far as practical separation of the assignments and casework functions. This ensures greater objectivity in assignments decision-making. It would be difficult to set guidelines which provided greater certainty without infringing administrative law principles.*

## CONTINUING ELIGIBILITY FOR LEGAL AID

**1.4.38** The monitoring of cases in progress is essential:

- ▶ to ensure that matters are not unjustifiably prolonged resulting in increased legal assistance costs; and
- ▶ to identify cases that may no longer warrant legal assistance, such as where an applicant's financial situation has improved.

**1.4.39** Table 1.4B summarises information compiled by the Commission in 1992 in relation to cases assigned in 1987-88 which remained unfinalised at October 1992.

**TABLE 1.4B**  
**1987-88 CASES UNFINALISED AT OCTOBER 1992 (a)**

		<i>Civil</i>	<i>Criminal</i>	<i>Family</i>	<i>Total</i>
Director assigned unfinalised	(number)	98	1 381	333	1 812
	(per cent)	17	20	38	22
Private practitioner unfinalised	(number)	1 008	1 279	923	3 210
	(per cent)	24	9	12	12
Total unfinalised	(number)	1 106	2 660	1 256	5 022
	(per cent)	23	12	15	15

(a) Total cases approved in 1987-88 was 34 697.

**1.4.40** The Table shows that of the 15 per cent unfinalised cases at October 1992:

- ▶ The highest proportion of unfinalised cases was in the area of civil law, with approximately 23 per cent of cases unfinalised; and
- ▶ In-house cases represented the highest proportion of cases unfinalised after 5 years. Although some of the differences may be attributed to the type of matters assigned, for example the more complex and time consuming criminal cases are usually assigned internally, the reasons have not been fully analysed and monitored by the Commission. Further, the reasons for the disproportionate difference in the completion rates in the family law area are not obvious and require a detailed examination to determine the causes for such a wide variation.

**1.4.41** The Commission already undertakes a process of review of unfinalised cases and has introduced an initiative known as Stage of Matter Limits (SOML) to restrict the cost of cases (refer paragraph 1.5.20 of this Report). However, **given the large number of unfinalised cases dating back before SOML these cases should be systematically reviewed with the aim of minimising future costs.**

- *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission has introduced a system whereby cases which have not received action in the previous 9 months are brought to attention. These cases are then reviewed.*



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# Section 1.5

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# Cost of Legal Assistance

## OVERVIEW

**1.5.1** Provision of legal assistance is the principal mechanism by which the Commission fulfils its objectives under its Act. Around 75 per cent of this type of assistance is provided through contracting private practitioner services, with in-house solicitors providing the balance. Since 1987-88, the overall real cost per case has increased by 82 per cent. This increase is predominantly due to the rise in solicitor and counsel fees, and the increasing complexity of cases.

**1.5.2** Compounding the overall increase in the general cost of service delivery, is the level and cost of *expensive* cases. *Expensive* cases have increased significantly since 1987-88 and take up a large and increasing proportion of the legal assistance budget. The Commission advised that it spends approximately 60 per cent of the budget on almost 96 per cent of cases, with the remaining 40 per cent of the budget spent on the 4 per cent of *expensive* cases. The funding of *expensive* cases has been a contributory factor to a 20 per cent reduction in the level of grants, from 37 000 in 1986-87 to 30 000 in 1992-93 with major reductions in the level of assistance provided in family and civil matters.

**1.5.3** In recognition of the need to contain legal expenses the Commission in May 1992 introduced a new costing mechanism known as Stage of Matter Limits (SOML) and a temporary 10 per cent reduction in the schedule of fees for criminal matters.

**1.5.4** In October 1993, a draft report titled "Study of the Professions - Legal" was published for public comment by the Trade Practices Commission and stated that the legal profession operated in a highly regulated environment which adversely affected the cost-efficiency of legal services. Based on the experiences at the Commission, audit agrees with these findings, especially in relation to the high and increasing cost of legal assistance. As the major single provider of legal services in Victoria, the Commission is in a position to benefit greatly from any eventual changes arising from the report of the Trade Practices Commission. In addition, the draft report should provide the necessary support for the Commission to seek and implement alternative mechanisms to:

- ▶ remunerate private practitioners;
- ▶ contract out its services; and
- ▶ establish the level and quality of legal assistance to be provided.

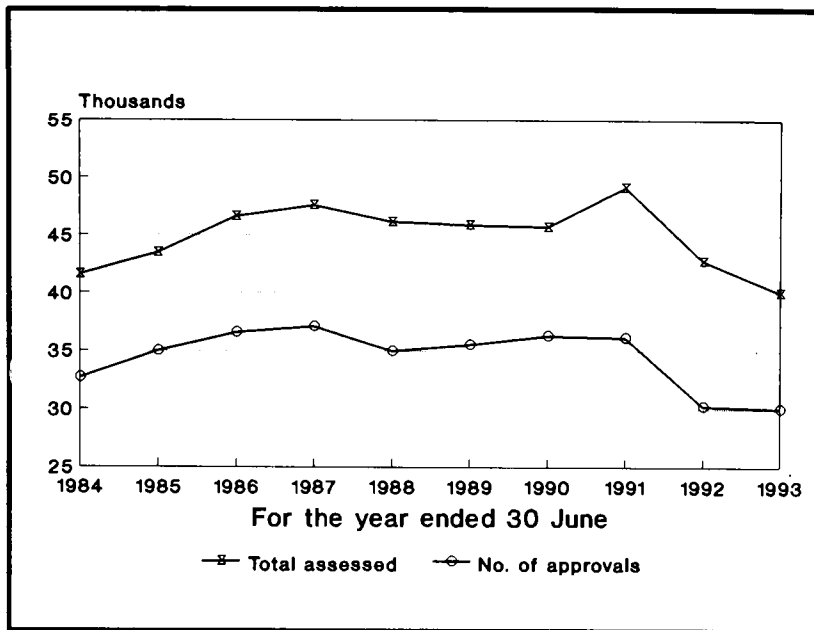
**1.5.5** The Commission is in the process of developing and introducing a number of initiatives, referred to throughout this Report, in an effort to redress the increasing cost of legal assistance. Audit considers that the Commission should also evaluate the manner in which it contracts out assistance in conjunction with an overall review of assignment procedures with the view to identifying alternative and more cost-effective methods of delivering services. The feasibility of inviting tenders from private practitioners for part of the case load needs to be seriously considered. Such a process would establish a "market rate" for the various types of legal assistance and create scope for cost savings.

## EVALUATION OF COSTS

### Overall increase in the cost of legal assistance

1.5.6 The total level of assistance applications assessed and approved by the Commission over the last decade is depicted in Chart 1.5A.

CHART 1.5A  
LEGAL ASSISTANCE



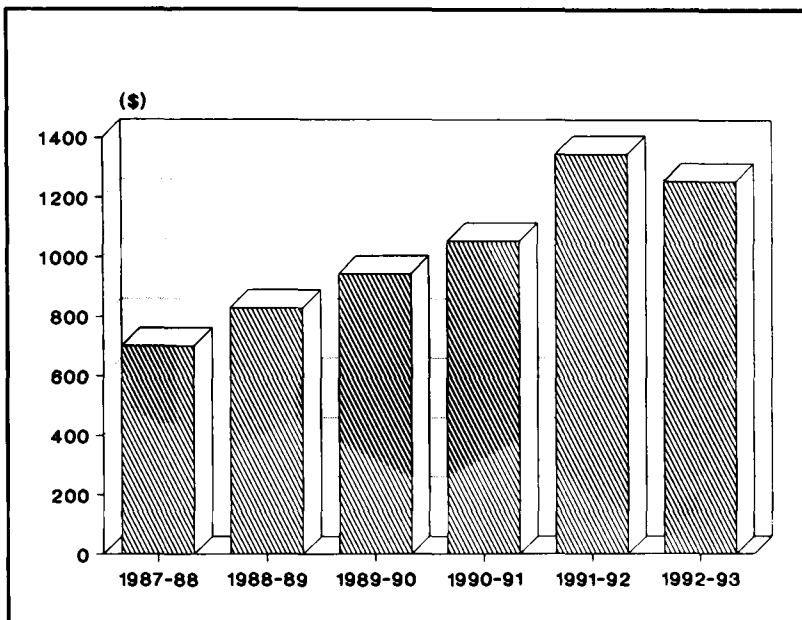
1.5.7 The Chart indicates that the number of approved applications for legal assistance peaked in 1986-87 at 37 000 and reduced by about 20 per cent to 30 000 in 1992-93. The Chart also reflects the level of demand for legal assistance received by the Commission. A tightening of the guidelines in 1991-92 caused a major reduction in the level of applications even though one would expect that in the current recessionary climate a greater number of people would be requiring legal assistance.

1.5.8 Since 1987-88, the overall real increase in the cost of assistance has been around 82 per cent as depicted in Chart 1.5B. This increase can largely be attributed to:

- ▶ the general increase of between 20 to 30 per cent, in real terms, in solicitor and counsel fees;
- ▶ the increased number of applications for assistance in complex and expensive cases; and
- ▶ the increasing cost of the administration and procedural requirements of the legal system.

**1.5.9** Data supplied by the Office of Legal Aid and Family Services (OLAFS), a Commonwealth organisation with an objective to administer government policy in respect of legal aid and family service issues, indicated that this trend is also prevalent, to varying degrees, in other States. Data provided by OLAFS indicated that since 1990-91 the overall real average cost of cases had grown by about 50 per cent in NSW and 67 per cent in Queensland.

**CHART 1.5B**  
**THE COST OF CASES**  
(average cost per case)



**1.5.10** The Chart also shows a slight reduction in the average cost of finalising a case for 1992-93, reflecting the introduction by the Commission of costing by Stage of Matter Limits and a temporary 10 per cent reduction in the criminal fee scales.

### Cost of private practitioner cases

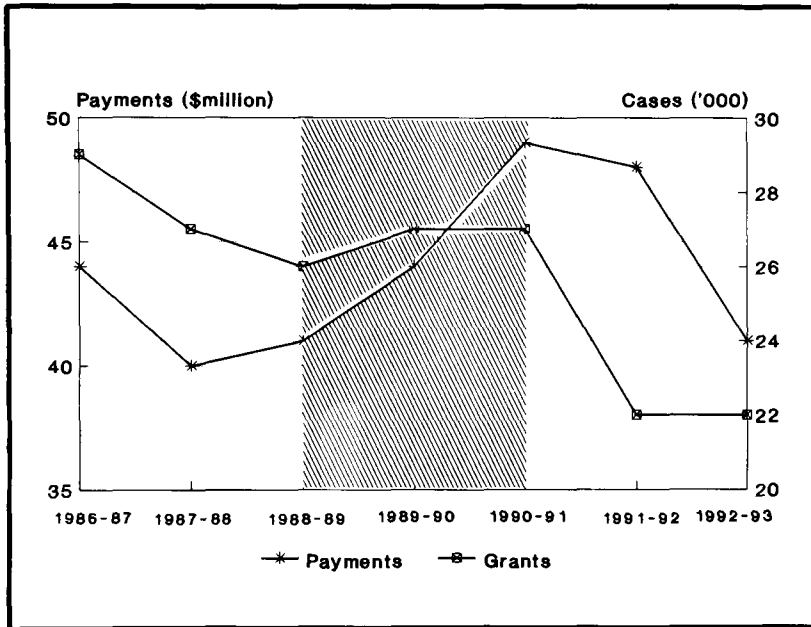
#### Background

**1.5.11** While the volume of grants to private practitioners has reduced since the mid-1980s, the percentage of legal aid grants assigned to private practitioners has stabilised at around 75 per cent. **The extensive use of private practitioners for the provision of legal services highlights the major role these practitioners play in the delivery of legal aid services to the public.**

**1.5.12** Remuneration of private practitioners for matters assigned by the Commission is determined in accordance with a number of statutory, court scales or lump sum fee schedules developed by the Commission. For example, a solicitor conducting civil proceedings in the Magistrates Court will be paid in accordance with the Statutory Magistrates Court Scale. Costs relating to summary criminal proceedings and some matters under the *Family Law Act 1975* are paid in accordance with lump sum fee schedules developed by the Commission. Total payments to private practitioners have increased from \$32.7 million in 1987-88 to \$41.3 million in 1992-93.

**1.5.13** Chart 1.5C illustrates the relationship between the approved case load and real payments to private practitioners since 1986-87 and indicates that while payments to private practitioners increased by 18 per cent between 1988-89 and 1990-91 the case load remained relatively stable.

**CHART 1.5C**  
**PRIVATE PRACTITIONER PAYMENTS AND CASE LOAD**  
 (in real dollars)



**1.5.14** The increase in private practitioner payments was also reflected in a Commission study which analysed the average cost of finalised private practitioner cases. Table 1.5D presents the results of the study which highlighted the significant real increase that has occurred in the average cost of private practitioner cases since 1987-88. **Overall, the average real cost, of such cases grew from \$786 in 1987-88 to \$1 434 in 1992-93, representing an 82 per cent real increase over this period.**

**TABLE 1.5D**  
**FINALISED PRIVATE PRACTITIONER CASES**  
 (average cost per case in real dollars)

Year	<i>Civil</i>	<i>Criminal</i>	<i>Family</i>	<i>Overall average</i>
1987-88	1 210	574	939	786
1988-89	1 676	726	1 038	969
1989-90	2 139	846	1 037	1 098
1990-91	2 541	922	1 156	1 216
1991-92	3 866	1 077	1 561	1 564
1992-93	3 868	909	1 728	1 434
<b>Cost growth over 5 years (%)</b>	<b>220</b>	<b>58</b>	<b>84</b>	<b>82</b>

**1.5.15** Analysis of the above information indicates that:

- ▶ all 3 types of grants experienced substantial real cost increases;
- ▶ the cost of civil cases increased by over 200 per cent;
- ▶ the average real cost of civil matters only increased marginally in 1992-93;
- ▶ the cost of criminal matters reduced by about 14 per cent in 1992-93;
- ▶ family law costs have continued to increase, with an 11 per cent increase for 1992-93; and
- ▶ the overall average cost reduced in 1992-93 by 8 per cent.

**1.5.16** In audit opinion, the key factors contributing to the escalating costs of private practitioner cases include the:

- ▶ Real increase in private practitioner fees of between 20 to 30 per cent over the past 5 years;
- ▶ Increasing complexity of laws and legal procedural matters and the resulting growth in the number of *expensive* cases; and
- ▶ Limited nature of case-tracking and case management systems within the Commission prior to the introduction of Stage of Matter Limit (SOML) in May 1992. Audit has reviewed cases approved prior to the introduction of SOML where the initial cost estimates were substantially exceeded, in some cases by up to 10 times. Further, a substantial number of cases especially civil matters, approved prior to SOML are still to be finalised and may continue to result in increased costs in the short-term.

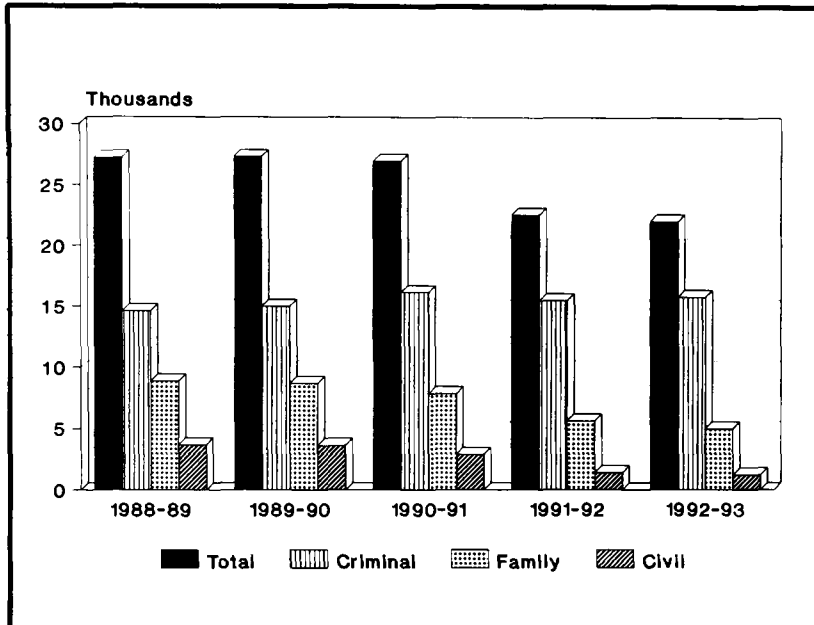
**1.5.17** In addition, the general acceptance by the Commission of private practitioners' opinions on the level of service provision needed, especially in regard to complex family and criminal law matters, may lead to the Commission incurring excessive costs. In audit opinion, while the practitioners may wish to maximise the service and benefits of legal assistance for the client, the Commission needs to balance the level of services provided to a particular client with its obligation to extend the legal aid services to as many eligible applicants as possible.

*Effect of rising costs of legal assistance*

**1.5.18** Chart 1.5E indicates that the level of assistance for family and civil cases has reduced by 44 per cent and 66 per cent, respectively, over the last 5 years, while assistance for criminal matters have increased by 7 per cent. This illustrates a sizeable shift of resources away from family and civil matters.

**1.5.19** The overall higher cost of private practitioner legal assistance has lead to a situation where the Commission is unable to continue to provide the same level of assistance, particularly civil and family law matters where it is now difficult to obtain assistance. This is of concern to Commission management who have acknowledged that a significant number of persons whose applications have merit are now refused legal assistance.

**CHART 1.5E  
PRIVATE PRACTITIONER LEGAL ASSISTANCE**



*Future direction*

**1.5.20** Over the past 2 years the Commission has implemented, or is in the process of developing, various measures to redress the increasing costs of legal assistance. Audit is fully supportive of these initiatives, which include:

- ▶ The introduction of a cost control mechanism which requires the approval of funding at each stage of the legal proceeding, e.g. negotiation or completion of action to pre-trial stage, known as Stage of Matter Limits; and

- ▶ A discussion paper produced in August 1993, on the feasibility of delegating the power to grant legal assistance in summary criminal cases to private practitioners through franchising. The proposal, currently under consideration, seeks to identify whether any savings in the cost of administering grants are possible through franchising.

**1.5.21** Other initiatives by the Commission include the finalisation and implementation of a corporate plan and consideration of:

- ▶ the development of a new information system including a time recording system; and
- ▶ a revised budgetary system.

**1.5.22 Significant benefits will be obtained from the implementation of the above initiatives. However, until the Commission is in a position to set competitive fees for all legal services, which will require changes to the highly regulated nature of the legal profession, it will not be in a position to achieve a significant reduction in the cost of providing legal assistance.**

**1.5.23** In this context, developments in NSW and the Commonwealth Government indicate a move towards the establishment of lump sum fees. The Legal Aid Commission of NSW has introduced lump sum fees for serious criminal matters and family law matters. The Commonwealth Government also funds its Child Support Program administered by each State through a set fee for a completed case. While acknowledging the development of set fees will be difficult, audit believes that the implementation of such measures would lead to more economic and efficient delivery of legal aid services.

**1.5.24** Recent amendments to its Act give the Commission the opportunity to restructure and review payments to private practitioners. In the short-term, the Commission should consider extending lump sum fees to all categories of cases. In the medium-term, a set fee per case could be established. The Commission should evaluate the following when establishing a set fee per case:

- ▶ existing data on the average cost per case; and
- ▶ existing level of fees charged by private practitioners.

**1.5.25** Alternatively, in order for the Commission to optimise its position as the major user of legal services in Victoria, the Commission should evaluate the benefits of packaging groups of cases for tender. The implementation of a competitive tendering system will assist in determining the lowest possible cost for legal aid services. Through tendering arrangements, private practitioners and firms would bid for individual blocks of cases. The best tenders would, after taking into account quality of service, subsequently determine the market rate for legal aid services. For example, the Commission funds approximately 3 500 cases involving theft each year of which it could tender, say, 1 500 where the winning tender would then establish a benchmark for legal fees for this type of case. This benchmark could then be used for cases handled by other private practitioners as well as those handled internally.



**1.5.26** In audit opinion, considerable cost savings could be achieved by tendering out, in blocks, a large proportion of Commission cases. The recent Trade Practices Commission draft report on the legal profession examined the implications of regulatory arrangements on the legal profession. The Commission found that the current regulatory framework inhibits competition and efficient service delivery at significant cost to the public. Specifically, the draft report states that: "... the Legal profession is highly regulated compared to other sectors of the economy and those regulations combine to impose substantial restrictions on the commercial and competitive conduct of lawyers. As a result, the current regulatory regime can only have adverse effects on the cost of and efficiency of legal services and their prices to business and final consumers".

**1.5.27** There is a need for the Commission as a major user of legal services, to reduce the cost of legal services by introducing a competitive system for the remuneration of private practitioners, such as the option of tendering. **To facilitate this process, the Commission should commence consultation with the legal profession.**

■ *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission has, during 1993, been reviewing fee structures with the aim of simplifying them and introducing lump sum fees wherever practical. However, since the Commission is responsible for expenditure of public funds it must ensure that it does not pay excessive amounts for services provided. Lump sum scales are most appropriate for low cost, high volume categories where the course of each case has a high degree of similarity. In more complex, and therefore costly matters, the course and length of cases is unpredictable and the risk of over remuneration if lump sum scales apply is greater. Stage of Matter Limits (SOML) have the advantage over lump sum fees of putting an upper limit on costs while enabling the Commission to pay less where the work done does not warrant payment of the full SOML amount.*

*The Commission has tendering and franchising under active consideration. The Commission has approached the Attorney-General for amendments to the Act to enable expeditious implementation of pilots if it is decided to proceed.*

*Further, the Commission is currently improving the definition and collection of statistics in conjunction with legal aid commissions nationally.*

## Expensive cases

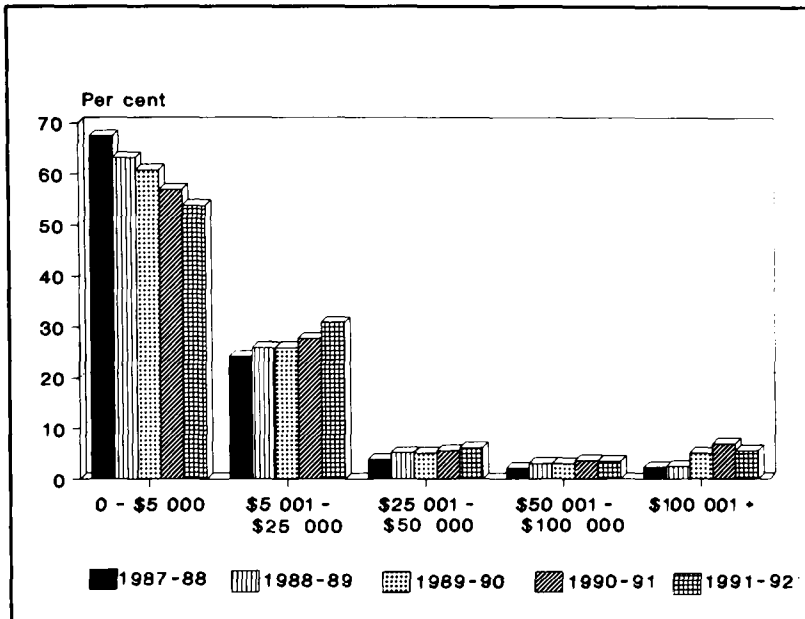
**1.5.28** The overall increase in the cost of cases and in particular the growth in expensive cases, that is cases costing over \$5 000, affects the level of service delivery in other areas of legal aid.

**1.5.29** An analysis by the Commission reviewed approximately 188 000 finalised cases between July 1987 and January 1993. **It indicated that over this period there has been an increasing trend for "expensive" cases to take a larger proportion of the legal assistance budget as evidenced by the fact that:**

- ▶ approximately, 60 per cent of its legal assistance budget was applied to 96 per cent of cases, (costing under \$5 000); and
- ▶ 40 per cent of its budget on cases exceeding \$5 000.

**1.5.30** Chart 1.5F illustrates, for the period 1987-88 to 1991-92 the proportion of case payments as a percentage of the total legal assistance budget.

CHART 1.5F  
STRATIFICATION OF CASES ACCORDING TO COST CATEGORIES



**1.5.31** A detailed audit analysis of the above information further disclosed:

- ▶ Cases under \$5 000 declined by 20 per cent, while associated payments increased from \$23.7 million to \$25.3 million in the period;
- ▶ Cases between \$5 000 and \$25 000 increased by 27 per cent, with payments increasing from \$8.5 million to \$14.5 during the period; and
- ▶ Cases over \$25 000 increased by 87 per cent with payments increasing from \$2.9 million to \$6.2 million. The number of cases costing above \$100 000 doubled with payments escalating from \$800 000 to \$2.6 million.

**1.5.32** Even though legal aid funding has been maintained in real terms, the growth in expensive cases over the past 6 years has contributed to an overall reduction of 20 per cent in the number of cases approved for assistance. As stated previously, the reduction in the level of grants has been most significant in civil cases which have halved and family law cases which have reduced by 25 per cent.

**1.5.33** The effect of the reduction in the level of family law assistance has not been assessed. However, anecdotal evidence provided by the Commission during the course of the audit suggests that without recourse through the courts, the legal needs and rights of many people may not have been provided for in the most effective manner.

**1.5.34** The Commission should formally assess the effect of expensive cases on its ability to provide legal assistance and together with the Department of Justice and other relevant organisations evaluate mechanisms for reducing, or at least constraining, the rise in the average cost of such cases. The findings of the Trade Practices Commission draft report on the legal profession may provide a starting point for this evaluation.

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# Section 1.6

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# Other Legal Aid Services

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## OVERVIEW

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**1.6.1** In addition to grants of assistance, the Commission provides duty lawyer services, legal advice and telephone information. The audit disclosed that mechanisms to monitor and regularly assess the performance of these services against set criteria have not yet been established. Specifically, the audit revealed that:

- ▶ The relative cost-effectiveness and efficiency of in-house and private practitioner duty lawyer schemes was not evaluated;
- ▶ The Commission funded a private practitioners duty lawyer scheme at an average cost of \$324 a day. The provision of similar services in the County Court by the Director of Public Prosecutions cost approximately \$300 a day. Audit considers that the difference in the average daily cost arises, in part, from the arrangement with the Law Institute to provide duty lawyers at a prescribed fee whereas the Director of Public Prosecutions negotiates directly with lawyers for the provision of services at *market rates*;
- ▶ There was no consistent rationale for the provision of advice services throughout the Commission; and
- ▶ There was an inconsistent approach to data collection and its analysis which resulted in the inability of the Commission to assess the performance of these services.

**1.6.2** **Audit concluded that there is a need for the Commission to evaluate the manner in which it provides these legal aid services in conjunction with an overall review of its organisational structure with the view to identifying alternative and more cost-effective methods of delivering services. One option that requires evaluation is the consolidation of these services under the responsibility of one unit.**

**1.6.3** Further, the audit of the Commission's community legal education programs revealed that the program could be enhanced through the development of performance criteria, greater monitoring of performance and improved accountability in relation to grants provided to community groups and legal centres.

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## DUTY LAWYER SCHEME

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### Background

**1.6.4** The role of duty lawyers is to advise and assist clients appearing in courts including the Magistrates and Children's Courts. The service includes appearing for clients on bail applications, adjournment applications, simple guilty pleas and hearings. The Commission provides this service through in-house duty lawyers as well as a private practitioners' scheme which is administered by the Law Institute but funded by the Commission.

## In-house scheme

**1.6.5** The provision of advice and court appearances by in-house duty lawyers increased to over 28 000 in 1992-93, representing an increase of 26 per cent over the past 3 years. As the Commission does not cost in-house duty lawyer services separately, audit was unable to undertake an independent evaluation as to its relative efficiency or productivity against the private practitioners duty lawyer scheme. **The Commission should take action to address this situation in line with paragraph 1.7.49 of this Report.**

## Private practitioners duty lawyer scheme

**1.6.6** The private practitioners duty lawyer scheme is funded by the Commission but administered by the Law Institute which arranges solicitor attendances at courts not serviced by the Commission.

**1.6.7** Audit noted that while the average cost of the private practitioners' duty lawyer service provided by the Commission in the Magistrates Court was \$324 a day, the Director of Public Prosecutions (DPP) advised that counsel could be obtained to appear in minor County Court matters for approximately \$300 per day. Even though the degree of seriousness and complexity of cases before the County Court is greater, this is slightly less than the daily rate paid by the Commission. In part, the reason for the difference in rates lies in how the services are engaged. Specifically, the DPP seeks informal expressions of interest by telephone while the Commission pays a prescribed fee. In addition, audit has been advised by Commission staff that some private practitioners, while on duty lawyer service, seek adjournments from the court to obtain legal aid funding for assistance for matters which could effectively be dealt with on the day. As a consequence, the Commission can incur the additional and unnecessary cost of a grant of assistance.

**1.6.8** In audit opinion, the current arrangements with the Law Institute constrain the Commission's ability to obtain the most cost-effective service. As the only provider of duty lawyer services within Victoria, the Commission is in a very strong position to obtain competitive prices from private practitioners willing to provide the service.

**1.6.9** **The Commission should investigate the feasibility of tendering or seek formal expressions of interest for blocks of duty lawyer services at particular regions as a means of reducing associated costs.**

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## PROVISION OF ADVICE SERVICES AND TELEPHONE INFORMATION

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### Introduction

#### *Advice services*

**1.6.10** Legal advice is provided by telephone, appointment or on a clinic basis throughout all Commission divisions and offices, and through regular visiting services to institutions and agencies. Advice services can vary from the provision of information about the law to the drafting of simple documents on behalf of individuals seeking legal assistance. The service recognises that in some cases a person's legal needs can be met without the need to provide legal representation.

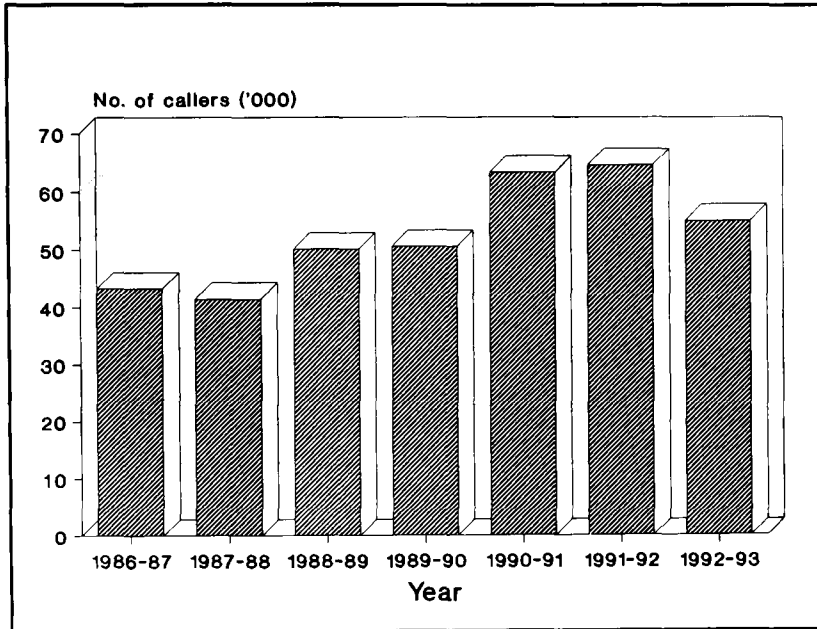
**1.6.11** In 1992-93, there was a 13 per cent reduction in the level of this service in comparison with the previous year. The Commission stated that this reduction was principally due to fewer staff resources and increased demand in duty lawyer services.

#### *Telephone information*

**1.6.12** The Telephone Information and Advice Service is operated through the general law division in the Melbourne office. The Service is designed to provide free advice, information and referrals and is often used by professional social workers, counsellors and people held in police custody.

**1.6.13** Chart 1.6A indicates that the utilisation of the Service has grown considerably and reached a peak in 1991-92, with around 65 000 callers seeking information. According to the Commission, in 1992-93 55 000 callers sought information and another 29 000 people abandoned their calls due to response delays of up to an hour. The Commission considers that both the long waiting period and the reduction in the number of callers assisted are directly related to the level of allocated resources.

**CHART 1.6A  
TELEPHONE INFORMATION SERVICES**



**1.6.14** In 1989, the Commission introduced a non-English speaking telephone information service. The service provides legal information in 12 languages at stipulated times throughout the week and has grown considerably from 1 000 callers in 1990-91 to 6 000 in 1992-93.

**1.6.15** Comments by Commission staff on the overall growth in both services suggest that there is an underlying level of unmet demand for these services. The services, which are relatively inexpensive to operate, present an opportunity to meet, solve or curtail legal needs at an early stage. As such, these services reduce the possibility that legal needs may escalate resulting in increased legal costs for the Commission through the provision of legal assistance.



## Evaluation of duty lawyer, telephone and advice services

### *Data collection and analysis*

**1.6.16** Audit found that there was an inconsistent approach to data collection and analysis, both among and between legal advice service functions. The lack of analysis to measure the performance of these services and related demand trends reduced the usefulness of the information and may lead to the inefficient use of available resources.

**1.6.17** Audit acknowledges that staff at regions and within specialised law divisions are aware of emerging issues and trends relating to their region but these have not been formally detailed or analysed on an organisation-wide basis. This knowledge, coupled with statistics, would be very valuable to the Commission as the analysis of such information would provide insight into emerging priorities of the Commission in terms of service delivery. **In order to maximise the benefits from the provision of advice services and improve the Commission's ability to service the needs of its clients, the Commission needs to establish a consistent methodology for collecting statistics for evaluation and analysis purposes.**

### *Efficiency of service delivery*

**1.6.18** In relation to the operation of duty lawyer, telephone and advice services, audit was unable to determine the economies and efficiency of individual services due to the lack of established priorities, performance indicators, budgets and the recording systems. The absence of this framework, together with the lack of established action plans, may result in inefficient resource allocations.

**1.6.19** In addition, audit considers that the separate management of advice services does not allow for the most efficient delivery of these services. Economies would be obtained through the more effective use of staff through the development of a single information advice structure. Further, the establishment of a single division at the Melbourne Office would facilitate the efficient coordination of such services and analysis of statistics.

**1.6.20** Audit supports a recent Commission proposal to bring both telephone services together in one unit and considers that there is an opportunity to extend this proposal to cover all advice and duty lawyer services.

## LEGAL EDUCATION

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### Goals and operational planning

**1.6.21** Under the *Legal Aid Commission Act 1978* a key function is to provide information about the law. The Commission's strategic plan, for the period 1993 to 1995, also identifies the provision of community legal education as a major goal. In practice, this goal is met through training paralegal staff, and developing school education programs as well as providing pamphlets, videos, handbooks and audio information.

**1.6.22** The strategic direction of the Commission with respect to the provision of legal education is clearly stated but is not supported by detailed action plans. **The development of detailed annual action plans for community education would provide a mechanism for improved accountability and facilitate more effective managerial review of performance through the clear articulation of sectional objectives, strategies, timelines, targets and measures of performance.**

### Program development and review

**1.6.23** Prior to formal approval and implementation of legal education programs, there is an assessment of legal content followed by testing with potential client groups. Although, the program approval process was adequately controlled, audit was unable to identify specific criteria developed by the Commission against which the development of specific legal education programs was justified. Further, the audit disclosed that:

- ▶ monitoring of projects and programs was generally not undertaken; and
- ▶ performance indicators were not used to assess program delivery.

**1.6.24** **To ensure the efficient and effective delivery of community education programs, the Commission needs to:**

- ▶ **formally articulate criteria for program development; and**
- ▶ **implement monitoring and post-project review mechanisms as well as performance indicators.**

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# Section 1.7

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# Management of Operations

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## OVERVIEW

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**1.7.1** To effectively manage the operations of the Commission and meet its legislative objective of ensuring the effective and efficient provision of legal aid services, it is important that appropriate planning and management processes are in operation.

**1.7.2** It is pleasing to report that over recent years the Commission has instigated a number of actions aimed at improving the efficiency and effectiveness of its management and administrative processes. Actions have included:

- ▶ initial development of strategic plans;
- ▶ development of a revised organisation structure to streamline the management process; and
- ▶ development of initial specifications for more effective information systems.

**1.7.3 Audit commends the Commission for these initiatives. However, it is considered that further scope exists for significant enhancements to be made to its management and administrative processes and therefore its operating efficiency through the:**

- ▶ improvement of strategic and financial planning to ensure that the organisation is well placed to meet both short and long-term needs, especially in relation to the impact of changes in the justice system and funding availability;
- ▶ prioritisation of the various forms of legal aid services and the types of legal matters assisted so that available resources are allocated to the highest priorities;
- ▶ development and review of qualitative and quantitative performance measures for all services and activities;
- ▶ review of the size and composition of the Board and management committees;
- ▶ assessment of current resourcing;
- ▶ more efficient use of in-house staff resources through the greater utilisation of paralegals in assignment work;
- ▶ reassessment of the current method of assigning cases between in-house staff and private practitioners;
- ▶ introduction of time recording and costing systems;
- ▶ urgent development on effective management information systems;
- ▶ further enhancement of financial budgeting and monitoring processes;
- ▶ improved mechanisms for the investigation of complaints; and
- ▶ placement of greater emphasis on the committal process to facilitate the efficient resolution of indictable criminal cases.

**1.7.4** In addition, audit identified opportunities for the Commission to increase the current levels of revenue from sources other than government funding.

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## STRATEGIC MANAGEMENT

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### Strategic planning

**1.7.5** The strategic planning process is an important component of the effective management of an organisation. To be effective, a strategic plan should incorporate:

- ▶ the overall mission of the organisation;
- ▶ a clear and comprehensive statement of corporate objectives which include consideration of the understanding, assessment and fulfilment of client needs;
- ▶ overall strategies to achieve corporate objectives; and
- ▶ performance targets and indicators to measure the efficiency and effectiveness of strategies implemented.

**1.7.6** The strategic plan should be reviewed periodically in light of changes in the operating environment to determine if the current strategy and objectives of the organisation remain the most effective means of achieving the overall mission of the organisation. To implement the plan it is important that detailed annual action plans are developed.

**1.7.7** In this regard, the Commission has made significant progress towards the development of an effective strategic planning framework.

**1.7.8** Despite this progress and the development of strategies aimed at improving service delivery, audit considered that strategic planning was deficient in that:

- ▶ The strategic plan was not supported by detailed analysis of the likely levels of future funding and the level of services that could be provided with these levels of funding after taking into account the impact of current long-term assistance commitments. There was also a need to prioritise services between assistance, advice, duty lawyer, and education and information should reductions of service levels be required in the future;
- ▶ Only limited consideration was given to the potential impact of changing circumstances in the justice system such as amendments to the *Crimes Act* 1958, expanded police numbers and changes in the court system;
- ▶ The wide range of reviews, e.g. the tendering and franchising of aspects of legal services, undertaken by the Commission had not been fully coordinated within its overall strategic goals and objectives; and
- ▶ Detailed analysis of alternatives to current administrative and service delivery processes in key areas such as the contracting of casework, the revision of assistance guidelines, the simplification of assignment approval processes and collection of contributions, and the effectiveness of regional operations had not been included in strategic plans.

**1.7.9** It is important that detailed strategic planning processes be improved for all key areas and activities of the Commission to enable it to meet the changing circumstances under which it operates and address the pressures on funding, costs and service provision.

### **Prioritisation of services**

**1.7.10** The Commission provides a wide range of services including legal assistance, duty lawyers, legal advice and education and information services. Given the diverse range of legal aid and the current pressures arising from limited funds and increasing costs, it is important that the various services and types of legal matters can be effectively prioritised to ensure that resources are applied to areas of greatest need.

**1.7.11** Currently, the Commission's determination of priorities has been largely reactive to external pressures such as increasing costs and reductions in funds. Generally, services are planned and operated in isolation with no overall evaluation of the comparative effectiveness and efficiency of these services. In practice, the lack of available funding has principally been met by a reduction in the level of legal assistance grants without analysing the relative effectiveness of providing legal aid grants by comparison with other services.

**1.7.12** In 1991-92, due to the impact of budgetary constraints and other economic pressures, the Commission introduced more stringent legal assistance guidelines despite the potential for growth in demand for legal assistance. Priority has been given to legal proceedings which may result in imprisonment or proceedings concerning children, resulting in an expansion in the proportion of criminal cases assisted in comparison with family and civil law matters. However, the Commission has not established clear priorities between each type of law and the matters within each type of law.

**1.7.13** In addition to the lack of formal priorities between law type and matters, further limitations as to the types of matters to receive assistance are decided throughout the year in line with increasing funding constraints that usually occur in the latter part of the year. This practice results in inequities, as matters assisted in the early stages of each year may not attract funding in later months.

**1.7.14** While recognising the difficulties in assigning formal priorities between the different forms of legal aid and the various legal matters to be assisted, there is a need to ensure that the most effective use of available resources is achieved. Therefore, audit considers that as part of its long-term and annual strategic planning, the Commission needs to establish clear priorities between:

- ▶ the various forms of legal aid services including assistance, advice, education and information; and
- ▶ the types of matters within each law category that should be given priority for legal assistance.

## Performance measurement

**1.7.15** The establishment of performance targets and measures is essential for effective planning and monitoring of performance against corporate goals and objectives. To be effective, performance measures should be established for all major activities in a manner which provides information and accountability for all levels of management.

**1.7.16** Performance measurement at the Commission currently consists of:

- ▶ a wide range of statistics on the level of legal assistance and other aid services;
- ▶ various financial reports; and
- ▶ broad task-based measures of performance for each division.

**1.7.17** In audit opinion, existing performance measurement does not measure the efficiency and effectiveness of service delivery and therefore does not provide the Board and senior management with appropriate and timely performance information to effectively plan and monitor the operations of the Commission. As a consequence, inefficiencies in processes and service delivery, and inconsistent or ineffective performance of divisions and regions may not be identified and addressed on a timely basis. The situation is also compounded by the fact that senior decision-makers are closely involved with operational issues, a position which can hinder the ability of the executive to objectively scrutinise service delivery.

**1.7.18** **Action is required by the Commission to improve the level of performance measurement by:**

- ▶ developing specific performance targets and indicators for all major activities of the Commission;
- ▶ setting quantitative targets for legal aid services which enable internal cost comparisons as well as comparisons between the Commission staff and private practitioners;
- ▶ formulating relevant qualitative measures for all major legal services which would also assist management in prioritising services and allocating available resources; and
- ▶ separating the decision-making process from service provision.

**1.7.19** Further, all key targets should be regularly measured against actual performance and reported to the Board and senior management to facilitate planning and monitoring of operations.

- *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission's strategic planning process has 2 stages. The first stage, completed in February 1993, involved establishing the Commission's goals and objectives for the next 3 years and strategies for achieving them. The second stage, which is underway, is the development of specific action plans to implement the strategies identified in stage 1. During stage 2, the matters referred to by audit are being addressed.*

## ORGANISATION STRUCTURE

### Proposed changes to organisation structure

**1.7.20** In December 1992, the Commission proposed changes to the current organisation structure aimed at streamlining executive management. The major thrust of this revised structure is the creation of the 2 major divisions of legal services and corporate services. Each of these divisions would be under the responsibility of a director reporting to the executive director. Current divisions of the Commission would be consolidated and placed under the responsibility of these new positions.

**1.7.21** The major benefits of the proposed restructure include:

- ▶ reducing the level and the number of managers reporting to the executive director;
- ▶ reducing the costs of management; and
- ▶ improving the efficiency of management decision-making.

**1.7.22** The proposed organisation structure has not yet been approved by the Attorney-General as it is to be considered in light of the findings of this audit and the subsequent joint review of the Commission by the Commonwealth and State Governments.

**1.7.23** **In audit opinion, subject to the recommendations of the joint review, the proposed reorganisation of the Commission into 2 streams is appropriate as it will provide more effective and streamlined reporting to the executive director and is consistent with the overall objective to improve the efficiency of Commission operations. However, attention must also be given to the supporting levels of the structure, particularly as a result of findings detailed in this Report.**

### Composition of the Board

**1.7.24** The Commission's Board is comprised of 11 appointees nominated by various organisations involved in providing legal aid. The current Board composition provides a wide cross-section of interested parties which acts as a safeguard on policy and strategic decisions for legal aid. However, the large number of Board members can result in difficulties in reaching agreement on certain aspects of Commission operations.

**1.7.25** The question therefore arises as to whether a Board of 11 members, nominated by a number of government, legal and community groups, represents the most effective and efficient board structure. In November 1992, in the *Report into Certain Issues Relating to the Legal Aid Commission of NSW* it was recommended that the size of the NSW Board be reduced from 10 to 5 members to facilitate effective management.



**1.7.26** It is recognised that any major reduction in the size of the Board would necessitate removing the right to representation of certain professional or community groups. However, to maintain an effective forum on legal aid, alternative means of consultation or representation should be evaluated. **Accordingly, the current structure and size of the Board needs to be reviewed with the dual objective of efficiently managing the Commission and providing adequate representation for all relevant legal and community groups through board nomination or other consultative processes.** The current extensive number of committees operated by the Commission, as outlined below, may provide the basis for establishing the required consultative process.

**1.7.27** In addition, a legislative amendment to its Act in 1992 requires that one of the Board members should be a person with expertise in finance, commerce or investment. To date, such an appointment has not been made. Given the current financial pressures on the provision of legal aid as outlined in Section 1.2 of this Report, **it is important that a person to assist it in the planning and monitoring of its financial activities be appointed.**

- *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The transitional provisions of the amending Act provide for the present incumbent to remain a commissioner until his term expires in 1994.*

### **Management and consultative committees**

**1.7.28** The Commission operates a wide range of management and consultative committees. There are approximately 16 formal committees which have large membership with some having external representation.

**1.7.29** While recognising the need for management and consultative committees to provide advice to the Board and senior management, audit considers that in many cases the number of formal committees together with their large membership may adversely affect the extent to which their activities can be carried out efficiently and may also result in delaying advice necessary for timely decision-making by senior management. Notwithstanding the opportunity to utilise some of the committees to provide consultation to the Board, there is a need to review the existing composition and size of the committees and the effectiveness of their operations.

## IN-HOUSE STAFFING

### Introduction

**1.7.30** To ensure the efficiency of operations, it is important that an organisation minimises the cost of resources by employing only the necessary level of staff with the skills and experience appropriate to the tasks to be undertaken. Any savings resulting from efficiency gains through the more effective use of staff could provide funds for additional services.

**1.7.31** At 30 June 1993, the Commission employed approximately 340 staff of which 117 or 34 per cent were qualified solicitors (see Table 1.7A). During 1991-92 and 1992-93 the Commission moved to reduce staff levels and in 1992-93 provided voluntary departure packages to 26 staff. Salaries and related costs in 1992-93 amounted to \$15 million which represented 22 per cent of the total expenditure of the Commission.

**TABLE 1.7A**  
**STAFFING OF THE COMMISSION, 30 JUNE 1993 (a)**

<i>Division</i>	<i>Solicitors</i>	<i>Other</i>	<i>Total</i>
Assignments	20	44	65
General law	24	18	42
Family law	11	12	23
Criminal law	25	12	37
Regional offices	29	62	91
Education and information	3	10	13
Finance and administration	0	57	57
Other	5	14	19
<b>Total</b>	<b>117</b>	<b>229</b>	<b>346</b>

(a) Staff numbers relate to equivalent full-time positions.

### Utilisation of paralegals

**1.7.32** Assignment work at the Melbourne office is primarily undertaken by solicitors, with 2 paralegals assessing the merits of summary criminal matters. It is strongly argued by the assignments division at Melbourne that the experience of solicitors is essential for the proper assessment of the merits of a case. However, regional offices extensively utilise paralegals in assigning and undertaking casework and in providing general advice. Regional managers interviewed by audit expressed confidence in the competence of paralegals for handling assignment work.

**1.7.33** The benefits flowing from the greater utilisation of paralegal staff includes:

- ▶ cost-efficiencies;
- ▶ more efficient and effective use of Commission solicitors; and
- ▶ greater job satisfaction for both qualified staff and paralegals.

**1.7.34** The Legal Aid Commissions of South Australia, New South Wales and Queensland are in the process of expanding the use of paralegals in the capacity of assignment officers and legal advisers. Although the Legal Aid Commission of Victoria identified the need to investigate the greater use of paralegals there has been significant reluctance to adopting such a proposal, especially in the Assignment Division at Melbourne.

**1.7.35** While acknowledging that in some complex matters a greater level of solicitor involvement may be necessary for assessing the merit of a case, the continued use of solicitors in assigning straightforward and routine matters indicates a degree of overservicing and wastage of professional resources.

**1.7.36** In audit opinion, the Commission should take action to make more efficient use of its in-house staff resources through the greater utilisation of paralegals in assignment work. The proposal to utilise more paralegal or administrative staff will be even more beneficial if the assignment process is revised in line with Section 1.4 of this Report.

- *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The salary costs of paralegals and base level legal officers are similar. Careful consideration of costs-benefits will therefore have to be undertaken when evaluating the mix of staff.*

#### **Potential reductions in administrative staff**

**1.7.37** Throughout this Report, audit has identified opportunities aimed at achieving efficiencies in operations. These include:

- ▶ the simplification of the assignment process for the approval of legal assistance including the conduct of means and merit tests;
- ▶ the introduction of *set fees by case*, resulting in reductions in the level of monitoring required of approved grants of assistance;
- ▶ the implementation of new information systems, aimed at streamlining administrative and approval processes; and
- ▶ changing client contribution collection and assessment methods.

**1.7.38** In addition, given the reduced service levels resulting from the changed financial circumstances of the Commission, it is unlikely that the existing administrative staff structure and levels will remain appropriate. **Accordingly, there is a need for the Commission to review the current administrative staff structure and levels.**

## Separation of functions

**1.7.39** Assignment work at regional offices is conducted in much the same manner as the Melbourne office, up to the point of certification of professional accounts, with responsibility for the payment of accounts handled by the Melbourne office. The process at regional offices may vary between regions to the extent that, at some offices, the same solicitor who sees the client in an interview and takes the application may also approve assistance, assess client contributions, act for the client or assign the casework externally, monitor assignments, certify accounts etc. At other offices there is a clear separation of assignment, casework and cost assessment and recovery functions. The benefits of separating the above functions have been recognised in the Commission corporate plan and other internal documents with particular reference to the segregation of assignments from casework. These benefits include:

- ▶ staff assessing client eligibility and client contributions are more likely to be objective if they have not had a professional relationship with a client; and
- ▶ decisions as to whether a case is assigned internally or to a private practitioner would be more clearly defensible as equitable.

**1.7.40** In accordance with the Commission's policy on approving legal assistance, the functions relating to the provision of legal aid services and the assessment of contributions and costs should be separated in all regional offices.

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## RESOURCE ALLOCATION

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**1.7.41** Resource planning is required to ensure efficiency in the allocation of tasks to staff or the consideration of alternative resources such as the use of the private sector.

**1.7.42** As stated earlier, the Commission is required under the Act to deliver legal aid in the most efficient, effective and economical manner having regard to available funds and resources. To achieve this aim in respect of the allocation of casework between in-house staff and private solicitors, **the Commission takes the view that legal assistance work will be referred to in-house staff in accordance with their respective areas of expertise until the full operating capacity of internal legal practice divisions is achieved.**

**1.7.43** Without questioning the appropriateness of this policy, audit noted that in practice where an applicant nominated a private solicitor, the case was referred to the solicitor of choice without always having due regard to the available operating capacity of internal practice divisions. While the personal preferences for representation is a consideration, this preference should not override the Commission's need to fully utilise its in-house resources thereby enabling it to provide an optimum level of services.

**1.7.44** In addition, audit considers that the allocation of legal assistance work between internal and private solicitors should be based on the most efficient method of providing legal assistance. To enable this decision to be made, it is important that the Commission has appropriate time and cost recording systems to determine the cost of the work undertaken, to monitor the use of resources used in its operations, and to measure the comparative cost efficiency of internal and private solicitors. Discussions with representatives of the legal profession revealed that the use of time and cost recording systems is standard practice throughout the profession as a means of measuring both the cost and time taken to complete legal cases and other legal services.

**1.7.45** In the absence of a time and cost recording system, the Commission conducted an in-house cost study to compare the cost of internally provided services with those provided by private solicitors. The study compared the total employment cost of in-house solicitors in 1991 and 1992 over 2 separate 3 month survey periods and encompassed both casework and advice. After excluding the cost of the advice services provided by both the Family and General Law Division, the study revealed that if workloads in the law divisions over a full year were representative of those performed by the surveyed groups, then in relation to private practitioner costs:

- ▶ The Criminal Law Division was 21 per cent **less costly** in 1991 and 13 per cent (less costly) in 1992;
- ▶ The Family Law Division was 71 per cent **more expensive** than private practitioners in 1991. The cost differential reduced significantly in 1992 to 19 per cent **more costly**;
- ▶ The Civil Section, within the General Law Division, was 21 per cent **more expensive** for 1992 (this Division was not surveyed in 1991); and
- ▶ The duty lawyer section, within the General Law Division was about 40 per cent **less costly** in 1991 and about 35 per cent **less costly** in 1992.

**1.7.46** As both law divisions and regional offices undertake a number of other activities such as advice and clinic services and given that time recording does not take place within the Commission, audit was unable to determine whether the data reflects the true and total cost of in-house cases. As such, the results of the surveys are not conclusive but provide:

- ▶ preliminary evidence that in certain areas the internal law divisions may not be as efficient as private solicitors;
- ▶ a basis for further cost analysis and investigations; and
- ▶ further support for the introduction of time recording and costing by function and service.

**1.7.47** **Despite its importance, the Commission has not yet implemented a time and cost recording systems. In the absence of such systems, the relative cost-effectiveness of internal legal aid services cannot be effectively measured against services provided by private solicitors.**

**1.7.48** To persist with the current policy of assigning cases internally until full capacity is reached, one would need to demonstrate that in-house solicitors provide a more economical service than their counterparts in the private sector. Until such proof is available the grounds for the retention of the present policy for allocating casework remains conjectural. At present, in the absence of appropriate management information data, the Commission cannot be assured that its current policy for assigning casework between private practitioners and salaried solicitors is appropriate for meeting its objectives under the Act.

**1.7.49** Priority needs to be given to the development and implementation of an effective time recording and costing system to ensure the allocation of work between internal legal practitioners and private practitioners is based more on considerations of cost-effectiveness rather than keeping internal staff fully occupied.

- *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission is developing a legal services costing system which will enable it to make work allocation decisions based on a comparison of the cost effectiveness of in-house and private practitioners. The system, which will be compatible with that of other legal aid commissions to facilitate national comparison, will be implemented by July 1994. The effectiveness of the costing system will be evaluated and the system upgraded as necessary once new computer systems to support it are installed.*

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## **BUDGETS AND FINANCIAL PLANS**

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**1.7.50** The adequate control of the financial resources of an organisation requires that effective budgets be prepared on an overall organisational basis and for each individual activity or item. It is also necessary that actual results be monitored against budget in order that any variations can be identified and acted on in a timely manner.

**1.7.51** The Commission currently prepares an annual budget and a 3 year forward financial plan. However, until 1992-93, budgets had been prepared on an organisational wide basis without the development of individual budgets for each division and activity. The failure to prepare budgets on a divisional or activity basis has generally led to the inability of divisional managers to monitor the actual costs of services against expected costs. This process increased the risk of budget overruns.

**1.7.52** In 1992-93, on the initiative of the Finance Division, budgets have been prepared on a divisional basis. However, due to significant inadequacies in current information systems as outlined in paragraphs 1.7.61 to 1.7.70 of this Report, budgeting for particular types of legal aid services or activities, e.g. legal representation versus other types of legal aid, remains limited. Discussions with finance management also indicated that there was a reluctance by certain divisions to assume responsibility for the monitoring of actual revenue and expenditure against budget.

**1.7.53** Given the current financial pressures on the Commission, it is important that in conjunction with the development of new information systems, effective budget and financial monitoring processes on an activity and divisional basis be established. In addition, the responsibility to monitor and control budgets should be reinforced as a major objective of each division. The budget process could be further enhanced by preparing 3 year budgets linked to outcomes of performance agreed with the State and Commonwealth Governments as the major providers of funding.

- *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission accepts the recommendation of audit. 1992-93 was the first year of divisional (cost centre) budgeting. The process of devolving budget accountability to operational units is being further developed in 1993-94 in conjunction with new information systems.*

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## **BUDGETING FOR GRANTS OF ASSISTANCE**

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### **Background**

**1.7.54** In preparing the annual budget, the Commission sets targets for the level of grants to be approved for that year. Based on the annual budget and these targets, annual plans are then prepared which establish expenditure targets and levels of grants for each month and each region. The targets are an important factor in determining the allocation and distribution of grants. For example, a person who applies for assistance for a minor criminal charge at the start of the month may be more likely to obtain assistance than if that person applied for assistance towards the end of the month. If funding becomes limited a more stringent application of the guidelines is imposed and assistance may not be available. This method of distributing legal aid is likely to lead to inequalities.

### **Legal assistance budget model**

**1.7.55** In an effort to enable the consistent application of *Legal Assistance Guidelines* and to smooth out major fluctuations in the level of grants provided like those experienced in 1991-92, the Commission is in the process of developing a computerised simulation model which will allow it to budget for a certain level of grants within a given level of constraints. The model predicts the cost implications of different levels of grants over the forthcoming years based on past trends. **Audit supports the development of such a model as it should assist the Commission in formulating future policies.**

**1.7.56** However, the usefulness of the model would be enhanced if it could detail the impact on the provision of legal aid under a range of circumstances such as expensive cases and directions by the courts to provide legal aid, especially in relation to grants costing in excess of \$200 000.

**1.7.57** Further, the benefits of the model are limited as the Commission has not yet developed and implemented business plans based on a medium to long-term strategic direction. As the approval to fund an application for legal assistance often results in the commitment of funds in future years, projections as to the level of grants in any one year are heavily influenced by expenditure on grants in previous years. Therefore, current and future needs of clients are constrained by past approvals and without formal medium-term business plans this can result in the inability of the Commission to meet future priorities and provide the necessary service to eligible clients.

**1.7.58** To address the problem, the Commission will need to develop medium-term business plans, determined after assessing the future needs for its services, and based on an agreed level of service delivery and detailed criteria for prioritising grants. To obtain maximum benefits from this approach the level of service delivery and the prioritisation of services should also be agreed with by the State and Commonwealth Governments as major providers of funding. The level and type of grants approved each year can then be planned over the longer-term.

**1.7.59** Although audit acknowledges the current difficulties in constructing business plans without the certainty of revenue streams especially in relation to medium-term government funding and revenue provided from the Solicitors' Guarantee Fund, it is considered that these difficulties can be lessened if major policy issues such as the level of service delivery and its form are clearly identified and approved at the Government level.

**1.7.60** As a result the Commission needs to:

- ▶ further develop its medium-term strategic planning; and
- ▶ improve its legal assistance budget model by incorporating provision for unforeseen events and determining the impact of such costs on future levels of grants of assistance.

■ *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission does not have a monthly quota system which results in a person's likelihood of obtaining legal assistance depending on the time of the month in which application is made. Application of the guidelines may, however, be tightened during the year to ensure that annual budgets are achieved. If the application of guidelines is tightened, or the guidelines themselves made more restrictive, this is done in a way that ensures higher priority cases continue to receive assistance.*

*The Commission budgets an amount for the cost of predicted expensive cases. As the legal assistance budget model is developed and more sophisticated information systems introduced the model will better predict the outcome of events.*



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**MANAGEMENT INFORMATION SYSTEMS**

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**1.7.61** To facilitate the management and monitoring of operations, including strategic management and performance measurement, an organisation should implement and maintain effective and efficient information systems.

**Computerised Legal Aid Services System (CLASS)***Operation of CLASS*

**1.7.62** The Commission currently relies heavily on CLASS for its information needs. CLASS was initiated by the Commonwealth Office of Legal Aid and Family Services (OLAFS) in the late 1980s for the use of the government legal aid organisations in each State. The aim of implementing this system throughout Australia was to provide consistent recording of statistical data to facilitate the comparative analysis of service delivery by interstate offices while allowing each State to meet their information requirements.

**1.7.63** The information compiled in CLASS mainly relates to details of each individual application for legal assistance, approved cases, duty lawyer services and advice services. The information on individual cases then forms the basis for internal management reporting and comparative analysis data by OLAFS. CLASS also incorporates financial information systems including accounts payable and receivable packages.

**1.7.64** In audit opinion, the operation of CLASS has not enabled effective and efficient management of Commission operations in that:

- ▶ the system has not been fully utilised by the Commission to accurately report and monitor its activities;
- ▶ information on all key services provided by the Commission is not separately recorded;
- ▶ the interrelationship of financial and service statistics is inadequate with the cost of legal casework and other important aspects of service delivery not separately recorded and reported;
- ▶ only limited use is made by staff of the wide range of reports that could be generated by the system;
- ▶ access to the system is limited in certain areas of the Commission's operations, especially in relation to solicitors in the Assignment Division, resulting in inefficiencies and the need for additional resources to input and access information on the system; and
- ▶ system response times, according to the Commission, were slow.

**1.7.65** Many of the deficiencies in CLASS are a direct result of:

- ▶ attempts to implement a system that would meet both the statistical requirements of the Commonwealth Government and the information requirements of Commission without integrating all requirements of both organisations;
- ▶ the adaption of CLASS to automate existing manual processes without enhancing and streamlining processes to the capabilities of the technology; and
- ▶ a reluctance by staff to fully utilise the capabilities of the system.

**1.7.66** As a result of both the actual and perceived deficiencies of CLASS, many areas of the Commission operate and maintain additional, and in certain cases duplicate manual records to supplement the information on CLASS. The maintenance of such records has resulted in inconsistencies and inaccuracies in the recording of statistics and other information as well as substantial inefficiencies in the administrative processes.

**1.7.67** A recent comparative analysis was undertaken by OLAFS of the operations of legal aid organisations in each State. Audit discussions with representatives of OLAFS revealed that due to inconsistencies in the classification of legal matters by States, differences in the operations of State legal systems, and varying data collection parameters, information produced is of limited use for interstate comparisons.

**1.7.68** While attempts are underway to rectify the data collection anomalies, the large amount of administrative effort to record data which has been of limited use to both the Commission and the OLAFS raises doubt in terms of the need for the level and type of existing reports. Alternatively, the situation has arisen where information has been prepared for many years without an assessment of its usefulness in terms of accuracy and its impact on decision-making. **In audit opinion, such a situation results in the waste of substantial administrative effort and resources.**

*Action by the Commission*

**1.7.69** The Commission recognises the limitations of CLASS as an effective tool for management and monitoring purposes and the lack of key information systems in certain areas of its operations. As a result, a consultant was appointed to assist in the development of an information systems strategy. The consultant's report, issued in February 1993, outlined the options and type of systems and hardware that the Commission should implement. In response to the consultancy report, management has established an office systems project aimed at identifying new systems required to improve the recording and reporting of management information.

**1.7.70** Given that this Report to the Parliament highlights opportunities for substantial changes to the administration and delivery of legal aid services, the development of system specifications and plans should incorporate the key findings to this Report. Audit was advised by Commission management that such changes will be considered prior to the finalisation of system specifications.

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## COMPLAINTS HANDLING MECHANISM

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### Effective and equitable complaints handling mechanism

**1.7.71** The Trade Practices Commission in its October 1993 draft report stated that the major features of an effective complaints mechanism should include: Review, Independence, Public accountability, Public awareness and Client redress. An independent, responsive, objective and equitable complaints handling mechanism is necessary to promote confidence in the operations of legal aid commissions. In this regard the *Legal Aid Commission Act 1978* requires the Commission to establish a complaints handling mechanism including the referral of complaints where necessary to the Legal Aid Review Committees.

### Commission's complaints handling mechanism

**1.7.72** The Commission deals with both complaints concerning staff and those regarding the conduct of private practitioners. The audit of the complaints investigation process disclosed that:

- ▶ Up until the end of 1992-93, only one complaint had been put before the Legal Aid Review Committees;
- ▶ The investigation officer does not accept any complaint unless it is in writing and, in the main, confines investigations to breaches of the terms and conditions of assignments under the Act; and
- ▶ Little public accountability exists with **no centrally maintained record incorporating the number, type, nature or origin of complaints**. As a result, audit was unable to obtain any evidence that complaints against staff are dealt with independently and objectively and that written reasons for decisions have been provided to the relevant parties.

**1.7.73** In the absence of records relating to complaints, audit was not in a position to form an opinion as to whether the current complaints handling mechanism was objective, responsive and equitable. **The Commission should review its current complaints and investigation procedures with a view to establishing an independent unit which meets the requirements set out in the Trade Practices Commission's draft report. The enhanced complaint handling mechanism should also provide the Commission with a performance indicator regarding successful resolution of complaints and lead to the early identification of problems in relation to service delivery.**

- *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission accepts the recommendation that it needs to review and upgrade its complaints handling mechanism. Under the proposed organisational restructure a client services unit would be created with a quality assurance focus. The Commission also wants to minimise the grounds for complaint. It is therefore considering the need for practice management and competency standards for practitioners who handle legal aid work.*

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## COMMITTAL PROCEEDINGS

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### Background

**1.7.74** In more serious criminal cases it is usual for preliminary hearings or committals to be held before a magistrate. The purpose of these hearings is to ensure that matters do not proceed to trial unless a substantial case against the defendant exists. The process also allows for the early identification of guilty pleas and provides a forum in which accused persons can ascertain the case against them and test the evidence of the prosecution.

**1.7.75** Under its guidelines, the Commission provides grants of legal aid for committals, including cases dealing with homicide and where the Commission is satisfied that a benefit to the client will result from representation.

### Pegasus Taskforce

**1.7.76** In July 1988, the Pegasus Taskforce was established by the then Attorney-General to review the criminal justice system and suggest ways of reducing delays in cases involving indictable offences. The Taskforce report, released in September 1992 expressed the view "*... that a fundamental flaw in our criminal justice system is the late identification of pleas of guilty*". It was further agreed that such late identification of guilty pleas caused major uncertainty in the courts case listing system and resulted in the inefficient use of resources by the courts, the Director of Public Prosecutions (DPP) and the Commission. The Taskforce considered that the key to the early identification of guilty pleas required that the Commission, the DPP and the private legal profession become involved in committals at an earlier stage and encourage clients to decide their plea very early in the legal process.

### Commission direction on committals

**1.7.77** Table 1.7B compares the percentage of committals assessed and refused assistance against the overall refusal rate for criminal matters. While the Commission's rate for refusing funding for committal proceedings has reduced since 1989, it remains almost 2.5 times greater than the overall refusal average for criminal matters at the Commission. The Commission has advised that since the release of the Taskforce report it has approved more applications for legal representation at committals and commenced a duty lawyer service for committal hearings, with the DPP also increasing its involvement in committals. Preliminary evidence suggests that the effect of these initiatives has been to substantially reduce the number of reserve pleas in favour of guilty pleas.

**TABLE 1.7B**  
**COMMITTALS ASSESSED AND APPROVED**

Year	<i>Committals assessed</i>	<i>Committals funded</i>	<i>Applicants refused</i>	<i>Overall refusal rate - criminal cases</i>
	<i>(no.)</i>	<i>(no.)</i>	<i>(%)</i>	<i>(%)</i>
1989-90	995	527	47.1	11.3
1990-91	830	462	44.3	15.3
1991-92	934	581	37.8	17.2
1992-93	984	655	33.4	13.8

**1.7.78** Significant efficiencies are still achievable through the establishment of a more cooperative and coordinated approach between the Commission and the DPP concerning committals. Both organisations are in agreement that through the development of such an approach the Commission will be able to fund a greater number of committals. Major benefits of funding more committals will include:

- ▶ a more effective and efficient use of Commission, DPP and court resources as resources will only be directed to outstanding or key issues;
- ▶ allowing the Commission to better establish the merits of the case prior to approving grants of assistance for full court hearings and trials; and
- ▶ allowing efficient use of resources by reducing the number of matters contested at trial.

**1.7.79** Both the Commission and DPP should ensure that there is early interaction and cooperation in committal cases in order to identify all relevant issues and facilitate the efficient resolution of cases in the most cost-effective manner. To maximise the benefits to all parties, this interaction should take place prior to the committal stage.

- *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The Commission accepts the recommendation and will continue to fund committals where there is any prospect of benefit being obtained by legal representation such as early identification of a plea or a narrowing of issues for trial. It is inherent in a justice system based on the principle that those who are wrongly or inappropriately charged should not be convicted that despite the best efforts of prosecuting authorities and defence representatives some matters will not settle.*

## CLIENT CONTRIBUTIONS

### Introduction

**1.7.80** Client contributions, the major source of other revenue, has fallen in real terms from \$16.3 million in 1991-92 to \$12.1 million in 1992-93. Discussions with Commission management indicated that due to ongoing reductions in the amounts contributed by clients the substantial decline experienced in 1992-93 will continue through to 1994-95.

**1.7.81** Part of the process of assigning legal assistance is the assessment of contributions towards the cost of such assistance. Contributions received from clients comprise:

- ▶ a \$30 compulsory contribution on approval of the application for assistance; and
- ▶ lump sums or monthly instalments on the basis of a means test assessed at both the initial approval of the assistance and following finalisation of the legal matter.

### Compulsory contributions

**1.7.82** In April 1992, after evaluating a number of alternatives, the Commission introduced a **compulsory contribution of \$30 for all approved applications of legal assistance** with the assignment officer able to waive the fee where its payment would cause genuine hardship. After allowing for a waiver rate of 40 per cent, it was estimated that the imposition of a compulsory contribution would increase revenue of approximately \$594 000 each year.

**1.7.83** Information supplied to audit by the Commission revealed that for the 12 months between 1 June 1992 and 31 May 1993:

- ▶ the compulsory contribution was waived in over 45 per cent of cases assigned to internal solicitors, a far greater waiver rate than anticipated especially when compared with the 18 per cent rate in cases assigned to private practitioners;
- ▶ the rate of waivers and postponements was far higher in the Melbourne office compared with regional offices;
- ▶ total revenue achieved from the application of the compulsory contribution was \$435 000 which was \$159 000 lower than anticipated; and
- ▶ due to the **deferral** of the contribution until after legal assistance was provided, actual cash received from internally assigned cases was approximately \$102 000 or less than 20 per cent of the amount projected.

**1.7.84** In light of the high waiver rate and the need to maximise revenue, the Commission needs to:

- ▶ investigate the reasons for the large discrepancies in the waiver rate between the Melbourne office, regional offices and private practitioners;
- ▶ ensuring the waiver of compulsory contributions is minimised; and
- ▶ require the compulsory contribution to be paid prior to the provision of legal assistance.

■ *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The compulsory contribution was waived in 45.3 per cent of cases which is slightly higher than the projected rate of 40 per cent. The low apparent waiver rate for private practitioners is attributable to them, in many cases, writing off the contribution rather than seeking a waiver or pursuing the applicant for payment, options which are not available to in-house practitioners.*

*The Commission is investigating the difference in waiver rates between the Melbourne and regional offices. Current practice is that in-house practitioners cannot undertake substantive work until the contribution is paid, even in urgent cases.*

**Timing of assessment of contributions**

**1.7.85** Generally, client contributions are assessed:

- ▶ by the Assignment Division, after the initial approval of legal assistance and subsequent approvals at various stages of the case (initial contributions); and
- ▶ by the Finance Division, at the completion of the case (final contributions).

**1.7.86** The assessment of initial and final contributions is based on the estimated or actual cost of the case assisted and the application of a means test based on provisions within the *Legal Assistance Guidelines*. The audit revealed that of the total contributions assessed in 1992-93 of \$16 million, initial contributions amounted to only \$730 000 or 4.5 per cent of total contributions. Further, despite the existence of guidelines for client contributions, inconsistencies were identified by Commission management in the assessment of contributions. In particular, a far more stringent approach had been adopted by the finance division compared with the initial assessment by the Assignment Division and assessments by regional offices.

**1.7.87** As a consequence of placing emphasis on determining contributions after legal assistance has been provided:

- ▶ revenue has been deferred; and
- ▶ clients are reluctant to meet contributions advised after their legal case has been completed.

**1.7.88** While recognising that initial contributions are based on the estimated cost of cases and may require adjustment at the completion of the case, the Commission should ensure that contributions are maximised at the initial stages of the assisted matter. The introduction of Stage of Matter Limits should facilitate this approach as accurate estimates should be available at the time of approval of each stage of the case.

**1.7.89 In addition, consideration should be given to:**

- ▶ revising the guidelines and the application of the means test to reduce an officer's level of discretion and to place greater emphasis on the assessment of contributions prior to the provision of legal aid; and
- ▶ involving finance division staff in the assessment of initial contributions.

**Changes to policies for initial and final contributions**

**1.7.90** In July 1993, the Commission decided to exempt the majority of social security recipients from contributing towards the cost of legal assistance without an analysis of their ability to pay. This decision was estimated by the Commission to have the potential to reduce revenue by approximately \$200 000 a year.

**1.7.91** Given the increasing cost of legal aid, decisions which reduce revenue limit the extent to which legal aid services can be provided in the future. Audit considers that there may be grounds to reconsider the decision to implement more lenient assessment of contributions.

**Collection methods for contributions**

**1.7.92** The Commission retains responsibility for the collection of the majority of contributions for cases assigned both internally and to private practitioners, with private practitioners paid the total cost of the case or stage of the case including the contributions to be provided by the client.

**1.7.93** In audit opinion, to the extent possible, the Commission should regard itself as responsible for providing assistance to clients and should not assume responsibility for the administration of cases assigned to private practitioners. In line with this philosophy, private practitioners would retain full responsibility for the case including the collection of the full fee represented by both client contributions and the grant payable by the Commission. By confining the collection of contributions to internally assigned cases, Commission's administrative costs should substantially reduce.

**1.7.94** It is pleasing to report that the Commission has commenced a review to evaluate the benefits of such a policy.

**Debtor levels and collection processes**

**1.7.95** Collection procedures at the Commission include annual reviews of large outstanding debtors balances. As part of this review process, information is requested from clients concerning any changes in financial circumstances or the client's ability to pay contributions outstanding. Based on these reviews, the amounts outstanding may be reassessed and written-off where it is considered that the debt cannot be collected. **However, contributions are not increased where it has been subsequently found that the client has the ability to meet a higher proportion of the costs of legal assistance.**



**1.7.96** At 30 June 1993, client contributions outstanding amounted to \$40.6 million of which \$5.1 million were unsecured and \$35.5 million related to debts secured by a charge over clients' properties. Audit review of debtors at 30 June 1993 and related processes revealed that:

- ▶ provisions for reassessment, write-downs and doubtful debts amounted to 28 per cent of the total debtors reflecting the possibility that a large proportion of debts may not be collected;
- ▶ approximately \$2 million of debts were written-off in 1992-93;
- ▶ 90 per cent of debtors were not receivable within 12 months, reflecting the high proportion of debts secured by charges over property; and
- ▶ although annual financial information is requested from debtors to assess their ability to pay, only limited attempts are made to follow-up clients who do not submit the required information.

**1.7.97** **The high level of write-offs and the apparent lack of a firm commitment by clients to pay outstanding debts to the Commission are contributing to revenue shortfalls. The Commission needs to improve collection procedures by ensuring that the matters highlighted in previous paragraphs, in relation to debt management, are addressed and that contributions are collected on a timely basis.**

- *RESPONSE provided by Chairman, Legal Aid Commission of Victoria*

*The guidelines currently allow little discretion to assessing officers to waive initial contributions. The 1993 survey of 151 Melbourne office files found that discretion (including discretion to grant assistance outside the guidelines and/or waive or reduce an initial contribution) was exercised in only 9.9 per cent of the files surveyed.*

*Contributions policies must reflect the fact that people are eligible for legal assistance because they cannot afford the cost of legal services. Their ability to pay an initial contribution from income or assets will therefore be limited and, since 85 per cent of assisted persons have incomes below the poverty line, most will be unable to pay an initial contribution without suffering undue hardship. The clarification of contributions policy by the Commission in July 1993 confirmed that persons whose sole income is a pension would generally not be required to pay a contribution from that pension. A review of this position would need to take account of relevant government policy and should therefore be addressed during the joint government review.*

*Once the Commission has assessed a final contribution based on an assisted person's financial circumstances at the conclusion of the case, that assessment is not increased if the assisted person's financial situation subsequently improves. The legality and equity of subsequently increasing an assisted person's liability is questionable. However, an increase in the rate of payment leading to earlier discharge of the debt would be an appropriate response to an improvement in financial circumstances.*

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## COSTING REFERRALS

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**1.7.98** The professional costs section of the Assignment Division provides a service to the public by reviewing disputed solicitors' costs. These matters are referred for investigation to the Commission by the Supreme Court Taxing Master and the Law Institute of Victoria. Records relating to the cost of providing this service are not maintained by the Commission.

**1.7.99** The review of solicitors' costs in dispute is an important service which to date has been provided by the Commission. However, as this activity is considered by audit to fall outside the normal legal aid functions it is important that the costs associated with this service do not result in reducing the resources available for priority services. In fact, the provision of this service presents the Commission with the opportunity to establish an additional source of revenue by either recovering a proportion of the costs recovered by clients or by providing the service at a fee which could be met by other organisations.

**1.7.100** **The Commission should take action to establish the cost of performing the review of disputed legal costs on behalf of the Supreme Court and Law Institute, and establish appropriate policies and processes to enable the recovery of costs or raising of fees for services undertaken.**

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# Section 2.1

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# Executive Summary

## OVERALL AUDIT CONCLUSION

**2.1.1.1** The Valuer-General plays an important role in providing independent valuations for use in the property transactions of government agencies and in ensuring a high standard of valuation is achieved throughout the State for rating and taxing purposes.

**2.1.1.2** While the costs of operating the Office of the Valuer-General amount to less than \$5 million a year, its activities can have a significant impact on maximising State revenue and generating cost savings in a number of areas. Given this situation, **it is essential that the resources provided to the Office are used in a more effective manner by directing them to transactions of greatest risk having regard to their materiality, nature or complexity and to areas which represent a high priority in terms of meeting the Government's objectives and protecting the interests of taxpayers.** With this in mind, audit considers that there is a need to review the operations of the Office to ensure that:

- ▶ the level and structure of resources provided to the Office are appropriate to enable it to meet the needs of government and to adapt to changing market conditions;
- ▶ the central guidelines established for compulsory involvement by the Office in property transactions of agencies provide adequate protection in areas of risk; and
- ▶ the Office's workload is prioritised on the basis of the Government's objectives in the valuation area.

**2.1.1.3** As the Office lacks an appropriate costing system, it is not in a position to quantify the cost of providing various services to client agencies. However, audit examinations suggested that in lower value transactions the fees charged by the Office generally do not recoup costs while charges for some high value transactions exceed the costs to the Office of providing the service. **In some areas, the fees charged by the Office vary considerably from those charged by private sector valuers.**

**2.1.1.4** To ensure that client agencies are aware of the full cost of their decisions to use the Office's services, in addition to encouraging the Office to look for ways of producing the service in a less costly manner, **it is important that the Office operates on a commercial basis, particularly in areas where the service could be provided by the private sector.** Audit considers that valuation services, outside the guidelines set at a central level for compulsory involvement by the Office, should only be undertaken by the Office where it can be demonstrated that it is more cost-effective than obtaining the services from private sector valuers.

## 2.1.2

# OVERALL RESPONSE BY SECRETARY TO THE DEPARTMENT OF FINANCE

*The Department of Finance has identified the need for a comprehensive review of the operations of the Office of the Valuer-General, as a pre-requisite to the establishment of a new Business Plan for the Office.*

*The review will focus on the strategic role of the Office in setting and monitoring valuation policies, standards and practices throughout the State, together with its role in the provision of independent valuation services to government agencies.*

*The review, to be commenced in early 1994, will also address the changes that are necessary to the accounting, costing and information technology systems and fees schedule to appropriately support the re-organised functions and responsibilities of the Office, the establishment of competitive pricing of valuation services, through the use of private sector valuers, will be examined.*

## SUMMARY OF MAJOR AUDIT FINDINGS

### VALUATION SERVICES

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- ▶ In setting central guidelines for the property transactions of government agencies, emphasis has primarily been placed on the dollar value of transactions and on alleviating the backlog of valuation requests received by the Office of the Valuer-General. This approach has not necessarily addressed areas of greatest risk.

*Paras 2.3.9 to 2.3.14*

- ▶ Under current arrangements, all valuation requests from client agencies are generally given the same priority irrespective of the risks to government associated with the transaction.

*Paras 2.3.15 to 2.3.17*

- ▶ On average, only 55 per cent of valuations are completed within the Office's target of 4 weeks. There is a need for the Office to review its performance measurement in relation to client service delivery to provide a more appropriate assessment of the extent to which client timing needs are met.

*Paras 2.3.18 to 2.3.21*

- ▶ Despite agencies achieving savings in excess of \$8 million in rental agreements over the past 6 years through the involvement of the Office, minimal use has been made of the Office's expertise in this area by government agencies.

*Paras 2.3.20 to 2.3.31*

- ▶ The opportunity identified by audit in 1991 to increase net revenue to the State through the additional involvement of the Office in the valuation of transactions for stamp duty purposes, has not been realised.

*Paras 2.3.32 to 2.3.40*

**FEE STRUCTURE**

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- ▶ Audit analysis suggested that in some areas, the amounts recouped by the Office exceeded the cost of providing the service, while in other areas costs significantly exceeded the charge levied.  
*Paras 2.4.5 to 2.4.9*
- ▶ Audit analysis indicated that in cases where the Office charges an hourly rate for its services, the rates are well below its costs and below the industry-recommended rates applicable to the private sector.  
*Paras 2.4.10 to 2.4.15*
- ▶ The Office has limited flexibility to set fees for its commercial services at competitive market rates.  
*Paras 2.4.21 to 2.4.29*
- ▶ The costs of certain non-commercial services such as supervision of municipal valuations and the provision of land sales statistical information are not fully recovered from the users of the information.  
*Paras 2.4.5 to 2.4.29*
- ▶ The lack of appropriate time recording and costing systems in the Office prevent the accurate identification of the costs of providing its various services. Improved accountability and cost savings anticipated from the proposed implementation of an integrated time recording and costing system are yet to be realised.  
*Paras 2.4.30 to 2.4.36*

**RESOURCING**

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- ▶ The Office does not have a sufficiently flexible resource management structure to enable it to adapt to changes in the level of demand for its services.  
*Paras 2.5.4 to 2.5.14*
- ▶ Over the 5 year period to June 1991, the Office experienced a turnover of 67 per cent of staff resources.  
*Paras 2.5.4 to 2.5.5*
- ▶ A number of factors, including funding constraints, inhibit the increased utilisation of private contractors to perform valuations on behalf of the Office, even in circumstances where it would provide a cost-effective arrangement.  
*Paras 2.5.6 to 2.5.14*

**MUNICIPAL MONITORING SERVICES**

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- ▶ Little progress has been made in implementing the recommendations, impacting on the Office's operations, resulting from a 1991 review of land tax arrangements.

*Paras 2.6.1 to 2.6.14***ASSET RECORDING AND REPORTING PROJECT**

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- ▶ Under current funding levels and resource allocations within the Office, it is unlikely that the completion of the Government's Asset Recording and Reporting Project will be achieved by the target of 1996.

*Paras 2.7.11 to 2.7.14*

- ▶ The completion of the Project will be essential to the successful implementation of accrual based financial statements and to achieving improved accountability within the budget sector.

*Paras 2.7.15 to 2.7.18*

- ▶ Poor asset recording systems within the budget sector have inhibited the Office in planning for the Project.

*Paras 2.7.8 to 2.7.10***STRATEGIC MANAGEMENT**

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- ▶ The achievement of specific targets set within the Office's 1990 Business Plan has not been formally evaluated by the Office. In addition, a review of the continued appropriateness of the Plan, which expired in June 1992, is yet to be undertaken.

*Paras 2.8.3 to 2.8.7*

- ▶ Indicators used by the Office to measure performance need to be improved in order to provide senior management with more meaningful data to assess achievements against specific targets and to assist in the decision-making process.

*Paras 2.8.8 to 2.8.10*

- ▶ Numerous limitations which continue to exist in the Office's information systems inhibit efficient service delivery to clients and prevent appropriate planning and management of the Office's operations.

*Paras 2.8.11 to 2.8.21*



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# Section 2.2

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# Conduct of the Audit Review

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## BACKGROUND

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### Role and functions

**2.2.1** The *Valuation of Land Act* 1960 provides for the appointment of a Valuer-General and a Valuers' Qualification Board, and makes further provision for the valuation of land by municipalities within the State.

**2.2.2** When the Office of the Valuer-General was established in 1960, its principal activity was the supervision and co-ordination of municipal rating valuations undertaken cyclically by each municipality within the State. While the Office continues to perform this function, a number of additional areas have subsequently emerged as major areas of Office activity, namely:

- ▶ valuations provided to government agencies for property sale, purchase, rental and asset management purposes;
- ▶ property valuations by the Office for the State Revenue Office in cases where doubt exists regarding the declared property values for stamp duty purposes; and
- ▶ the collection of sales and other statistical information for:
  - use by valuers within, and external to, the Office;
  - the calculation by the Office of property value indices, including equalisation factors used by the State Revenue Office for the calculation of land tax; and
  - use by State and Commonwealth Grants Commissions.

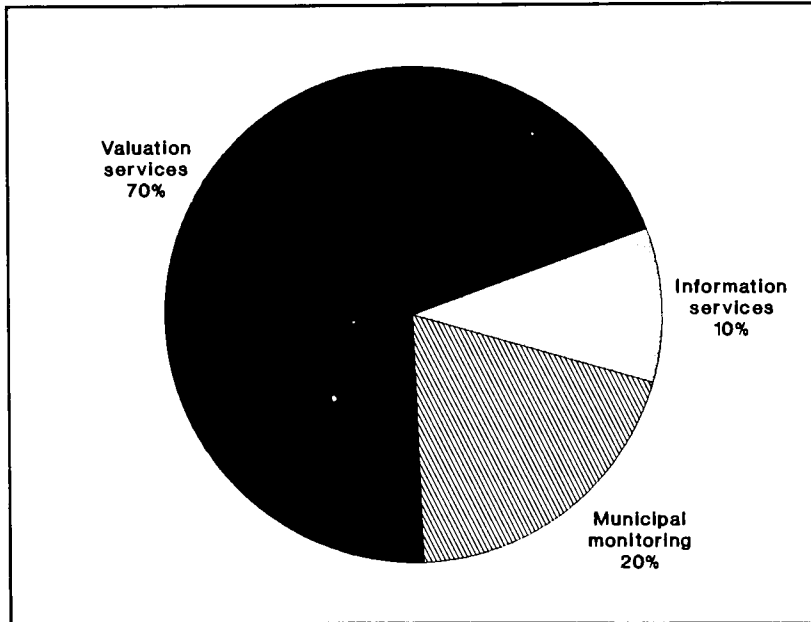
**2.2.3** Valuation services are now provided by the Office to approximately 100 public sector agencies in addition to over 200 local municipalities operating throughout the State. The Office's clients also include various recipients of sales data and other statistical information including registered valuers and estate agents within the private sector.

### Organisational structure and resourcing

**2.2.4** The Office, which operates as a Division of the Department of Finance, has a decentralised organisational structure with the central office located in Melbourne and small regional offices in Ballarat, Geelong, Wodonga and Mildura. At 30 June 1993, the Office employed 103 staff.

2.2.5 Chart 2.2A shows the allocation of resources across the major activities of the Office.

**CHART 2.2A  
RESOURCE ALLOCATION, 30 JUNE 1993**



2.2.6 Resources available to the Office are provided through an annual appropriation from the Consolidated Fund. Revenue generated by the Office from fees charged for its services is paid to the Consolidated Fund. In 1992-93, the Office generated revenue of \$3.5 million and incurred expenditure of \$4.7 million.

**Constraints on the Office’s operations**

2.2.7 A number of changes and environmental constraints have impacted on the operations of the Office and its administration of legislation in recent years. In particular:

- ▶ The Office has operated in a dynamic industry where the level of activity is continually changing as a result of general economic factors and property market conditions;
- ▶ Significant increases have occurred in government requests for specialist valuation advice in areas such as:
  - the asset sales program;
  - key government projects involving property transactions; and
  - asset recording and reporting;

- ▶ Office staff have been subjected to increasing complexity of valuation work, together with a demand for improved quality of service;
- ▶ High levels of competition from the private sector have resulted in the loss of experienced valuation staff. At the same time, constraints imposed by public sector re-deployment policies have restricted recruitment strategies; and
- ▶ Information systems have been inadequate to service the needs of the Office.

**2.2.8** The Office's operations have also been constrained in some areas by the legislative framework in which it operates. For example, as the Office's fees are prescribed by Regulations under the *Valuation of Land Act 1960*, any variations considered necessary to the fee structure, to reflect changes in Office costs or market factors, have been difficult to achieve in a timely manner.

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## **AUDIT OBJECTIVES AND SCOPE**

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### **Objectives**

**2.2.9** The overall objective of the audit was to examine the operations of the Office with a view to assessing whether:

- ▶ the Office provides government with the most economic, efficient and effective valuation and property advice service;
- ▶ the utilisation of financial, human and physical resources has assisted the achievement of the stated corporate objectives of the Office and has been in accordance with its statutory obligations; and
- ▶ information systems and reporting processes provide an adequate level of accountability and management control over the Office's operations.

## Scope

**2.2.10** The following areas were examined by audit:

- ▶ policies, procedures and guidelines employed by the Office in performing its functions;
- ▶ business plans and strategies developed by the Office;
- ▶ valuation services and activities;
- ▶ municipal monitoring services;
- ▶ asset recording and reporting services;
- ▶ information systems and reporting processes;
- ▶ relevant revenue and expenditure areas;
- ▶ fee structure and costings; and
- ▶ resourcing of the Office.

**2.2.11** The examination included discussions with relevant staff within the Office and the examination of accounting systems, files and other documentation maintained by the Office.

**2.2.12** The Valuer-General and staff of his Office provided significant assistance throughout the course of the audit. I wish to acknowledge the contribution that their co-operation made to the preparation of this Report.

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## Section 2.3

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# Valuation Services

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## OVERVIEW

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**2.3.1** The use of an independent valuation in government property transactions is necessary to ensuring that the interests of government are adequately protected. **The involvement of the Valuer-General is particularly important in transactions of high risk to the Government in terms of their materiality, nature or complexity.** As such, it is essential that the regulatory framework for property transactions is appropriate to minimise such risks.

**2.3.2** It was apparent from audit examinations that the parameters set by the Department of Planning and Development for compulsory Office involvement were primarily directed towards the dollar value of transactions and on alleviating the backlog of valuation requests within the Office. Under current arrangements, the valuation workload of the Office is driven by requests received by client agencies with requests not generally prioritised on the basis of whether they are of a compulsory or non-compulsory nature.

**2.3.3** To ensure the most effective use of the Office's resources, **there is a need to assess the current requirements relating to the involvement of the Office in property transactions of government. Recognition should also be given to prioritising the valuation requests received by the Office with resources directed primarily to compulsory areas.** Valuations outside the parameters set at a central level should only be undertaken by the Office where it can be demonstrated that it is cost-effective for the Office to provide the service.

- *RESPONSE provided by Secretary, Department of Finance*

*Prioritisation and scope of the Office's activities will be addressed as part of the management review.*

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## VALUATION FUNCTION

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**2.3.4** The major function of the Office relates to the provision of valuations and valuation advice to government agencies. This function, generally performed in response to requests received from approximately 100 government agencies, is critical to the Office's objective of protecting the interests of the Government and the people of Victoria as it is **aimed at providing assurance that fair valuations are used for property sales, rental transactions and stamp duty assessments.**

**2.3.5** As indicated in Table 2.3A, the total number of valuation requests received by the Office has declined over the past 6 years, primarily due to a reduction in property market activity.

**TABLE 2.3A  
VALUATION REQUESTS**

<i>Year</i>	<i>Valuation requests</i>
1987-88	10 458
1988-89	7 595
1989-90	6 088
1990-91	6 039
1991-92	4 620
1992-93	4 421

**2.3.6** The period has also seen a significant shift in the composition of the Office's valuation work from advice for stamp duty purposes to an increase in the provision of general valuations relating to a range of government property transactions such as property sales and purchases in addition to advice on rentals.

**2.3.7** Each request received by the Office can involve a series of valuations. The number of valuations actually performed by the Office in each area during 1992-93 is set out in Table 2.3B.

**TABLE 2.3B  
VALUATIONS PERFORMED, 1992-93**

<i>Valuation area</i>	<i>Number</i>
General	9 687
Rental	1 784
Stamp duty referrals	574

**2.3.8** Specific audit findings in relation to each of these areas follows.

## **GENERAL VALUATIONS**

### **Government requirements**

**2.3.9** Guidance to government agencies in relation to property transactions is set out in the *Government Instructions, Policies and Procedures for Acquiring or Disposing of an Interest in Land*, issued by the Land Monitoring Unit of the Department of Planning and Development.

**2.3.10** In accordance with the guidelines, the approval of the Land Monitoring Unit is required for any property transactions where the consideration is \$250 000 or more.



**2.3.11** The following additional requirements for property transactions are set out in the guidelines:

*Transactions under \$400 000*

One valuation is required with the option of an additional valuation if considered necessary. Where 2 valuations are obtained, one must be provided by the Valuer-General.

*Transactions of \$400 000 and above*

Valuations are to be obtained from the Valuer-General and a registered private practising valuer, except where the property is to be sold to another State, Commonwealth or local government agency. In these cases, only the Valuer-General's valuation is required.

### **Increase in minimum requirements**

**2.3.12** The current minimum requirement for Office involvement in transactions over \$400 000 was established in 1991-92. Previously, the requirements had been applied to all property transactions over \$100 000. The increase followed several recommendations by the Valuer-General based on the rationale that property values had increased substantially since the \$100 000 limit was set in September 1985. The Valuer-General considered that the increase would enable agencies to:

- ▶ direct valuations under \$400 000 to the private sector if they could negotiate a lower cost; and
- ▶ eliminate the additional costs involved in obtaining 2 valuations for transactions of between \$100 000 and \$399 999.

**2.3.13** To a lesser extent, the increase was aimed at reducing the workload of the Office during a time of high property market activity.

**2.3.14** Audit considers that the establishment of parameters on the basis of the dollar value of the transaction or resource availability is not necessarily appropriate to ensuring all risks to government are protected.

### **Compulsory and non-compulsory valuation activity**

**2.3.15** Although the total number of valuation requests has declined since the increase in the limit to \$400 000, this has been due mainly to the depressed property market. Despite the relaxations of the requirements, audit found that agencies have continued to utilise the services of the Office for valuations under the minimum requirements (**referred to by the Office as non-compulsory valuations**).

**2.3.16** In fact, the proportion of non-compulsory valuations has increased in recent years to a level where around 83 per cent of the Office's valuation resources are utilised on such transactions.

**2.3.17** Audit concluded that there is a need to review the central guidelines established for property transactions to ensure that they address areas of greatest risk. In addition, **the Office needs to prioritise its valuation work to ensure that resources are primarily directed to valuations necessary to meet the requirements of the guidelines established by the Government.**

- *RESPONSE provided by Secretary, Department of Finance*

*While prioritisation of work is currently determined within existing guidelines, these guidelines will be reviewed to maximise the level of prudential control over property matters consistent with efficient and cost-effective management.*

*The Office is required to undertake a large number of valuations under \$400 000 because of legislative or Cabinet requirements. This issue will be examined as part of the review and modified as considered appropriate.*

### Service delivery

**2.3.18** The Office's 1990 Business Plan set a key objective of providing improved client services through reducing the volume of work on hand to a level representing only 4 weeks. This was to be achieved through the increased use of contractors and staff overtime. **Client surveys conducted at the time the Business Plan was developed identified delays in the provision of valuations as the worst feature of the service provided by the Valuer-General. Clients maintained that delays had in some cases created additional work and resulted in increased cost to their agency.**

**2.3.19** Audit examinations disclosed that turnaround times have improved to some extent since the December 1988 quarter when only 41 per cent of valuations met the 4 week target. However, **despite the initial improvement, the proportion has remained relatively constant at around 55 per cent since the March 1990 quarter.**

**2.3.20** The limitations of the Office's current information systems make it impossible to measure the turnaround time for each type of valuation such as compulsory compared with non-compulsory valuations.

**2.3.21** Audit considers there is a need for the Office to review its performance measurement in this area. Given the differences in the nature of valuations and the timing requirements of clients, audit considers that a more appropriate indicator of service delivery would be the proportion of valuation requests completed by the date agreed with clients at the time the request is made.

■ **RESPONSE** provided by Secretary, Department of Finance

*The issue of delays in the return of valuations has been addressed by the introduction of completion target dates in line with client agency requirements. This has improved response time for clients.*

*The 4 week turnaround time is a performance measurement tool only. Valuations vary in complexity and volume. Valuation requirements vary significantly, i.e. some have a 24 hour completion time while other complex valuations can take many months for completion depending upon the research and other technical reports which may be required. Clients required dates form the basis of priority and target dates. These matters, together with scheduling of valuations, form an integrated plan to ensure that requests are handled without duplication of research and travel minimising the cost to the client agency.*

*In terms of resources to meet market resurgence and ability to meet demands, the Office has organised its various valuation programs to allow flexibility to meet surges in demand. Where demands exceed the Office capacity, then arrangements are made to utilise contract valuers where it is considered appropriate.*

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## RENTAL VALUATIONS

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### Role of the Office in rental transactions

**2.3.22** In the public sector, rental transactions can fall into 2 main categories:

- ▶ leasing costs incurred by public bodies; and
- ▶ rent revenue generated by public bodies.

**2.3.23** In accordance with delegations authorised by the Minister for Finance, all budget agencies are able to arrange rental transactions within certain delegation limits. However, where the annual rental is above \$5 000, the agency is required to engage the Office, or a private valuer retained by the Department of Finance, for rental assessments.

**2.3.24** The Office considers that it has a very important role to play in rental valuations given the large monetary values involved. The materiality of lease commitments was highlighted in the Auditor-General's *Special Report No. 14, Accommodation Management, October 1990*, which estimated annual rental costs incurred by public sector bodies for accommodation facilities alone to be around \$125 million. Although more recent estimates were unavailable, annual outlays by government agencies for leased accommodation remain significant.

**2.3.25** The range of incentives on offer to attract rental tenants has increased in recent years due to the depressed state of the property market. Consequently, the degree of complexity associated with negotiating rental arrangements has increased the need for expert involvement in the process. Where agencies enter into rental arrangements without the required level of expertise, the following unsatisfactory outcomes can result:

- ▶ Agreement to a rental rate which is too high. The Office has contended that not only does this situation affect the agency directly, it can also cause a flow-on effect to other agencies negotiating rents in the same building or in other buildings in the vicinity; and
- ▶ Failure to take full advantage of market benefits available such as, favourable rent review clauses, free rental periods, free fit outs and other advantageous terms and conditions.

### **Savings identified in the rental area**

**2.3.26** Audit was advised that the services of the Office are generally sought for large budget sector rentals, primarily managed by the Department of Finance. As a result of this involvement, the Office has developed considerable expertise in rental valuations, particularly within the Melbourne Central Business District. The Office's involvement in the provision of valuation advice to the Asset Management Division of the Department of Finance, assisted in achieving **rental savings of at least \$4 million in the Central Business District between June 1986 and June 1988**. For example, during 1988, the asking rentals on 2 properties in the Central Business District, amounting to \$4.6 million, were reduced to \$2.7 million through a process of negotiation by agencies. **Valuations provided by the Valuer-General formed the basis of the negotiations.**

**2.3.27** Additional benefits resulting from rental advice provided by the Office in more recent times have included:

- ▶ removal of *make good* provisions requiring tenants to return premises to the same condition as existed at the commencement of the lease;
- ▶ capping of outgoings and rental reviews;
- ▶ rent-free periods; and
- ▶ cash contributions to fit out.

**2.3.28** **The savings resulting from these incentives over the past 4 years have totalled a further \$4.7 million.**

### **Scope for greater involvement in rental valuations**

**2.3.29** The former Department of Property and Services recognised the substantial contribution the Office could make in the rental area. In a Cabinet submission in 1988, the Department proposed that it be compulsory for all government agencies, both budget and non-budget, to seek advice from the Office for rentals in excess of \$25 000 a year.

**2.3.30** The Department argued that, based on past experience, **the Office could provide a very cost-effective service to government in the rental assessment area**. Nevertheless, the proposal was not accepted at that time. Although a specific strategy subsequently included in the Office's Business Plan was aimed at requiring all State agencies, including those in the non-budget sector, to seek rental valuation advice from the Office for transactions above \$50 000, the involvement of the Office in rentals continues to be limited to a relatively small number of assessments on behalf of budget sector agencies.

**2.3.31** The expertise of the Office has enabled agencies to capitalise on savings available in the current rental property market. Although the involvement of the Office has occurred in a relatively small number of public sector rental negotiations, **savings of at least \$8.7 million have been realised over the past 6 years**. In view of these savings, there is a need for the Department of Finance to:

- ▶ evaluate the benefits of the Office having input to the rental negotiations of non-budget sector agencies;
  - ▶ prepare a cost-benefit analysis of rental valuation services to budget sector agencies to determine the optimum level for compulsory involvement by the Office; and
  - ▶ seek any necessary changes to the minimum rental value requirement of budget sector agencies on the basis of the analysis.
- *RESPONSE provided by Secretary, Department of Finance*

*The role of the Office, in relation to rental negotiations, will be examined as part of the overall management review.*

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## STAMP DUTY REFERRALS

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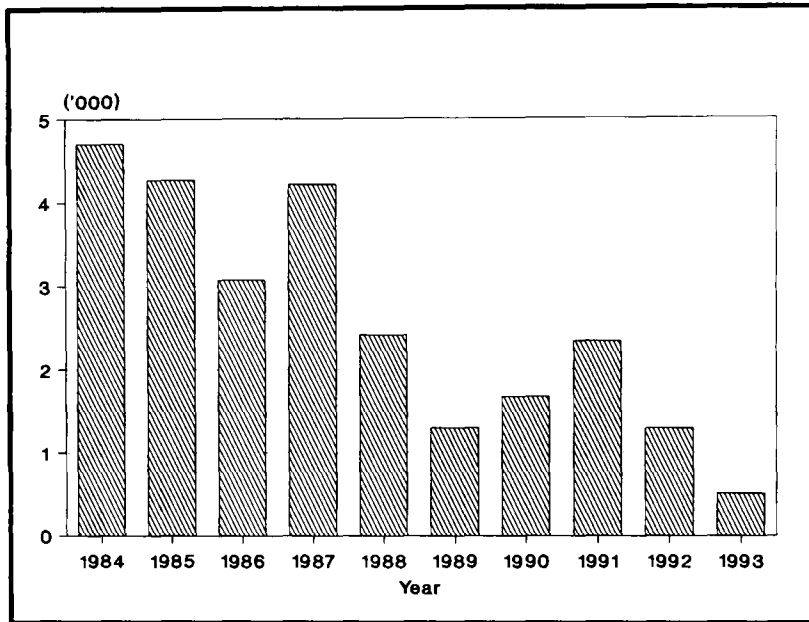
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**2.3.32** In accordance with the *Stamps Act* 1958, stamp duty is payable on the transfer of land and is calculated on the *declared value* of the property transferred. In the majority of land transfers of an arms-length nature, little doubt exists regarding the price paid, as parties are required to provide the contract of sale together with transfer documents. However, in circumstances where a goodwill component is associated with the transfer, no consideration is involved, or a transfer occurs between related parties, there may be uncertainty regarding the market value to be assigned to the property for the purpose of calculating stamp duty.

**2.3.33** Officers within the State Revenue Office are required to assess whether or not the declared value of the property is reasonable. Where serious doubt exists, the details are referred to the Office for a valuation. **If the valuation determined by the Office is greater than the declared value, there is a resulting increase in stamp duty revenue to the State.**

**2.3.34** As indicated in Chart 2.3D, the number of referrals to the Office from the State Revenue Office has decreased significantly over the last 10 years.

**CHART 2.3D**  
**STAMP DUTY REFERRALS**  
(year ended 30 June)



**2.3.35** The *Report of the Auditor-General on the Finance Statement for the year ended 30 June 1991* included the results of a review of the revenue collection procedures of the former Stamp Duties Office (SDO). The review concluded that the decrease in referrals, which was due to a reduction in the funds provided to the SDO for these purposes, had resulted in a net loss of revenue to the State. In particular, the Report disclosed that:

- ▶ Between 1984-85 and 1990-91, the SDO referred over 19 000 property transactions to the Office for valuation. Subsequent valuations by the Office disclosed that the market value of these properties exceeded their declared value by over \$391 million resulting in an additional \$13 million in stamp duty revenue;
- ▶ The average increase in duty for all referrals was \$495, representing a return of approximately \$5 for every \$1 spent by the SDO; and
- ▶ The number of referrals decreased from 4 275 in 1984-85 to 2 336 in 1990-91, a reduction of 45 per cent.

**2.3.36** The audit review also highlighted the need for criteria to be established to assist in selecting transactions to be referred to the Office.

**2.3.37** Audit found that since that time, referrals had further decreased to 1 287 in 1991-92 and to around only 600 in 1992-93. In 1991-92, **the increase in assessed values of properties referred amounted to \$64 million.**

**2.3.38** Audit was advised that the Office did not obtain statistics to measure the increased revenue resulting from this area of activity in comparison with the cost of undertaking the valuations.

**2.3.39** In May 1989, the Office suggested to the former Department of Management and Budget that, to safeguard stamp duty revenue, referrals from the State Revenue Office should include:

- ▶ transfers of all commercial properties with a goodwill component;
- ▶ all transactions between related parties;
- ▶ all transactions over a certain value; and
- ▶ all transactions lodged where the declared value is not more than 20 per cent higher than an indexed municipal valuation in the metropolitan area and 10 per cent higher in country areas.

**2.3.40** Audit was advised by officers in the State Revenue Office that such criteria have not been set for referrals. Consequently, **the opportunity identified by audit in 1991 to increase net revenue to the State through additional involvement of the Office in the valuation of transactions for stamp duty purposes, has not been realised.**

■ *RESPONSE provided by Secretary, Department of Finance*

*The Office has made submissions to the Department of the Treasury to examine the number and nature of stamp duty referrals. The Office will continue discussions with the State Revenue Office to establish a more appropriate process.*

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# Section 2.4

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# Fee Structure



## OVERVIEW

**2.4.1** While the Office applies a charge to client agencies for services of a commercial nature, services required by legislation are funded directly through the annual appropriation process. The revenue of \$3.5 million received by the Office in 1992-93 included \$3.3 million relating to valuation services.

**2.4.2** Since 1988, the Valuer-General has sought a revision of the fee structure of his Office which would enable the achievement of cost recovery in commercial areas and enable more competitive rates to be set. Despite the various submissions made by the Office to central agencies, the proposed legislative amendments have not been enacted.

**2.4.3** It is particularly important for the Office's charges to reflect total costs in areas where the provision of the service is not required under legislation or government guidelines. Client agencies will then be in a better position to determine the cost-effectiveness of using private sector valuers in these areas rather than the service provided by the Office. Audit considers that, **even in areas such as the municipal monitoring services, an assessment should be undertaken of the benefits to be derived from charging the State or local government agencies which benefit from the service.**

**2.4.4** Audit found that **the existing fee structure is not conducive to promoting the efficient use of Office resources or the resources available to client agencies. In addition, the Office has not established suitable systems to ensure costs allocated to each project for cost recovery purposes are accurate.**

- *RESPONSE provided by Secretary, Department of Finance*

*The structure of fees for service, including full cost recovery principles, will be part of the comprehensive review of the Office.*

## COST RECOVERY

**2.4.5** For fee charging purposes, the Office has divided its activities into the following categories:

- ▶ **Commercial services** - those services which are, or are potentially, of a commercial nature and which are offered, or could be offered by, the private sector. They include property valuations and information services; and
- ▶ **Non-commercial services** - services such as the supervision of municipal valuations which are required by legislation and the Office is generally the sole provider.

**2.4.6** Although many of the services of the Office are provided to other public sector agencies, it is important that the amounts charged at least recoup the cost to the Office of providing the service. The objective of interdepartmental charging is to improve efficiency of resource allocation by making agencies aware of the full cost of their decisions to use the service and encouraging the agency supplying the service to look for ways of producing the service in a more cost-efficient manner.

**2.4.7** In 1988, the Office engaged a group of consultants to review its pricing policies. The review found that cross-subsidisation existed between client agencies and that no charge was made for some services provided by the Office. It also highlighted the fact that to recover all costs of the Office, a rate of \$95 per hour would need to be charged for the services provided. In comparison, the hourly rate charged at the time was \$64 (33 per cent of costs) for the first hour and \$48 (49 per cent of costs) for each subsequent hour. **In the absence of any reliable update of the cost recovery rate determined by consultants in 1988, this rate has been used for comparative purposes throughout this Section of the Report.**

**2.4.8** In a submission to the Treasurer in May 1989, the Valuer-General indicated that his Office would adopt full cost recovery principles within a year for all commercial services. The response by the then Department of Management of Budget indicated that **prices for commercial services should be set at a rate which reflects the cost of providing the service, or market rates, whichever is the greater.** Pricing based on full cost recovery for non-commercial services of the Office was not supported by the Treasurer and this view was reflected in the Office's 1990 Business Plan, which indicated that it was not the intention of the Office to achieve full cost recovery in all areas of activity. The Office's fee pricing policy has continued to reflect the above decision. For example, **no charge was made by the Office for the cost of supervising municipal rating valuations (non-commercial service), amounting to around \$1.5 million in 1992-93.**

**2.4.9** As the Office has not yet established appropriate costing systems, it is not in a position to identify the cost of each separate area of activity or to assess the extent of cross-subsidisation between various services and between client agencies. Nevertheless, **audit analysis of available data suggested that in some areas the amounts recouped by the Office exceed the costs of providing the service, while in other areas the charges made by the Office are significantly less than the costs incurred.** The overall extent to which the Office's costs have not been recouped is reflected in the net outflows of the Office in 1992-93 amounting to \$1.2 million. The impact of the current fee structure in particular areas of Office activity is highlighted in the following paragraphs.

## Valuation services

**2.4.10** The Valuation of Land Regulations 1984, as amended, set out the fees to be charged by the Office for its valuation services. In accordance with the Regulations, the Office applies an *ad valorem fee*, which bases charges on the value of property transactions, to rental valuations and **formal valuations** (generally involving market research, site inspection and preparation of a written valuation report). The fee for **informal valuation advice**, such as curbside valuations, is calculated using an hourly rate. The Regulations also provide for the Office to charge for transportation costs, travelling time and location attendance fees.

**2.4.11** Although the rates for informal valuation advice have been increased to \$74 for the first hour and \$56 for subsequent hours since the 1988 consultancy review, they still fall well short of the Office's costs of \$95 per hour identified at that time. Given increases in the Consumer Price Index since 1988, totalling around 20 per cent, the Office's costs would now be even greater than those identified in 1988.

**2.4.12** The use of an *ad valorem fee* is also not conducive to setting fees which reflect the cost of undertaking the valuation. Table 2.4A details the average *ad valorem* fees charged by the Office for formal valuations during the period July 1988 to February 1993.

**TABLE 2.4A**  
**AVERAGE FEES FOR VALUATIONS,**  
**JULY 1988 TO FEBRUARY 1993**  
( $\$$ )

<i>Value of transaction</i>	<i>Fee charged</i>
Up to \$100 000	293
\$100 001 to \$400 000	560
\$400 001 to \$750 000	1 069
\$750 001 to \$1 million	1 549
Over \$1 million	5 071

**2.4.13** As indicated in the above table, the average fee charged for formal valuations increases substantially for high value transactions. However, the value of the transaction does not necessarily reflect the complexity of, or time taken to perform, each valuation.

**2.4.14** In relation to non-compulsory valuations (including formal valuations and informal valuation advice) undertaken by the Office between 1988 and 1993, audit estimated that costs of approximately \$4.7 million have not been recouped. This situation is illustrated in Table 2.4B which was prepared on the basis of the number of hours involved in valuations during the period and the difference between the hourly rates applied to those valuations and the hourly cost of \$95 identified in 1988.

**TABLE 2.4B**  
**ESTIMATED UNRECOUPED COSTS**  
(\$'000)

Year	Formal valuations	Informal valuations	Total
1988-89	689	173	862
1989-90	312	190	502
1990-91	217	366	583
1991-92	1 356	882	2 238
1992-93	248	304	552
<b>Total</b>	<b>2 822</b>	<b>1 915</b>	<b>4 737</b>

**2.4.15** This analysis indicates that the current pricing structure for valuations results in a significant shortfall in revenue generated for some lower value (non-compulsory) transactions.

- *RESPONSE provided by Secretary, Department of Finance*

*The structure of fees for services provided by the Office will be part of the comprehensive review. Full cost recovery principles for valuation services provided to public sector agencies are currently under review to ensure that fees more accurately reflect the cost of providing the service.*

#### Land sales and other statistical information

**2.4.16** The Office currently maintains a database of property sales statistics and land sales information for use in the performance of its valuation activities. The data is based on notification by vendors of all property sales occurring in the State and as such, it also provides a comprehensive reference for private valuers and real estate firms.

**2.4.17** Fees charged for the provision of this information have traditionally been established at a relatively low level with infrequent increases. Audit analysis indicates that **the revenue generated in this area, of around \$120 000 a year, recovers 25 to 30 per cent of costs.**

**2.4.18** Given the usefulness to, and reliance placed on this service by, the private sector, **audit considers that it would be appropriate to set fees in this area at a rate which reflects the market value of the service, or the cost of maintaining the database, whichever is the greater.**

#### Asset Recording and Reporting Project

**2.4.19** Although the Office was unable to provide details of the actual cost of the Asset Recording and Reporting Project (refer to Section 2.7 of this Report), audit estimates that the costs to date have amounted to at least \$1.6 million. Actual fees charged in this area to client agencies have amounted to around \$1.4 million. Details are provided in Table 2.4C.

**TABLE 2.4C**  
**ESTIMATED COST OF**  
**ASSET RECORDING AND REPORTING PROJECT**  
(\$'000)

<i>Year</i>	<i>Fees charged</i>	<i>Total cost</i>
1990-91	633	945
1991-92	119	123
1992-93	625	581
<b>Total</b>	<b>1 377</b>	<b>1 649</b>

**2.4.20** In addition to the cost identified above, the Office has also estimated a \$200 000 outlay to date for the development and implementation of the centralised database to record all government property assets.

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## MARKET FACTORS

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### Ad valorem fees

**2.4.21** The original rationale for the ad valorem scale of fees set for the Office's formal valuation services was to achieve a degree of consistency between the Office's fees and the recommended ad valorem scale of fees and charges published by the Australian Institute of Valuers and Land Economists. Although the fees recommended by the Institute are currently higher than those set in the Regulations, **audit was advised that the current depressed and highly competitive property market has resulted in considerable price cutting in valuation fees. As a result, the fees currently charged within the private sector are in some cases significantly below those of the Office.** As the Office is unable to move away from the ad valorem fee scale set within the Regulations and negotiate fees with clients, it cannot effectively compete with the private sector.

**2.4.22** The limitations of the ad valorem fee scale have been particularly evident in high value transactions. In 1982, the Institute reviewed its fee scale which resulted in a reduction of fees for valuations over \$1 million. On the other hand, for a number of years, the fees charged by the Office were indexed in accordance with increases in the Consumer Price Index, including valuations for properties in excess of \$1 million. This situation created a significant disparity between the fees charged by the Office compared with those charged by the private sector for high value transactions.

**2.4.23** This situation led one Office client to state:

*"... given the high value of some of the properties with which we deal, the fees resulting from the Valuer-General's scale are very large. Private valuers are prepared and able to modify their fees at this extreme end of the scale. The Valuer-General does not have this flexibility ... Fee charges on two recent projects resulted in a Valuer-General's fee three times higher than the fee sought by each private valuer ..."*

**2.4.24** Although a modification to fees in September 1991 partly addressed this problem, **the use of an ad valorem fee continues to result in significant disparities between the Office's fees and those charged by private sector valuers.**

- *RESPONSE provided by Secretary, Department of Finance*

*The fees charged by the Valuer-General are set under the provisions of the Valuation of Land Act 1960. The Act restricts the way in which fees are set and limits the ability to set flexible fees.*

### Hourly rates

**2.4.25** The hourly rates charged by the Office for informal valuation advice and ancillary costs have historically been significantly below the minimum rate recommended by the Institute as an industry guide. Although increased charges were approved by the Minister for Finance in late 1992, they are still pending the required changes to the Regulations.

**2.4.26** The disparity between the current and proposed Office hourly rates for valuation services and those recommended by the Institute are illustrated in Table 2.4D.

**TABLE 2.4D**  
**HOURLY RATES, AT 30 JUNE 1993**  
(\$)

<i>Type of charge</i>	<i>Current Office rate</i>	<i>Proposed Office rate</i>	<i>Recommended Institute rate</i>
Informal valuation -			
First hour	74	90	150
Additional hours	56	70	150
Travelling time	43	52	75
Attendance fees -			
First hour	74	90	150
Additional hours	56	70	150
Conference fees	86	105	225

**2.4.27** Audit was advised that in other States of Australia fees charged by the Valuer-General are generally based on an hourly rate and an ad valorem scale is not used. Although the hourly rates charged in other States are not publicly disclosed, Office representatives indicated that the rates are significantly higher than those used, or proposed, in Victoria.

**2.4.28** For the Office to operate on a commercial basis in areas where services can be acquired by client agencies from the private sector, it is important that sufficient flexibility is provided to enable fees to be set at a competitive market rate in cases where market rates exceed the costs of providing the service.

**2.4.29** Setting fees for the Office's services at competitive market rates is in line with *Guidelines for Setting Fees and Charges Imposed by Departments and Budget Sector Agencies* issued by the Department of the Treasury in July 1993. The Guidelines indicate that "... all fees or charges for the sale of goods or the provision of services, including those set by regulation, should be set at full cost recovery. For goods or services supplied in an open market, the charge may be set higher if market conditions allow".

- *RESPONSE provided by Secretary, Department of Finance*

*The Office has delayed the implementation of increases in hourly rates pending a full review of fee charging which is being undertaken. It was not considered appropriate to introduce the new fee charges in isolation.*

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## TIME RECORDING AND COSTING SYSTEMS

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**2.4.30** The implementation of a system which bases charges on the costs of providing a service is dependent on timely and accurate job costing systems. Such systems can also assist in:

- ▶ calculating the cost of providing particular services even where a charge is not to be made;
- ▶ measuring and monitoring performance in each area of activity;
- ▶ identifying areas of low productivity;
- ▶ allocating and scheduling resources;
- ▶ ensuring staff are held accountable for time spent on various activities; and
- ▶ budgeting for the financial needs of the Office.

**2.4.31** It was recognised by the Office that the revision of the pricing structure advocated in 1988 was dependent on the introduction of a new time recording and costing system within the Office. However, audit found such a system has not yet been developed and that the **existing systems are totally inadequate in meeting the needs of the Office for costing purposes.**

## Current systems

**2.4.32** The Office's current time recording system, requires the manual completion of a fortnightly attendance record detailing the hours worked by each officer and the use of a costing sheet.

**2.4.33** Audit found that the recording system is subject to a number of limitations. In particular:

- ▶ Time spent by officers on activities other than valuations, such as municipal monitoring, Office administrative duties and compilation of statistics, are not recorded;
- ▶ Certain details, such as the various components of the valuation activity, are not recorded for costing purposes. Consequently, the information available to management for monitoring the valuation function and identifying scope for efficiency gains is limited;
- ▶ The calculation of fees to be charged to clients for informal valuation advice is based on the time recorded on the costing sheet. However, audit was advised that the time recorded does not necessarily reflect the actual time spent on each particular valuation; and
- ▶ The manual nature of the systems also makes them time consuming, costly to maintain and subject to error.

## Anticipated cost savings and efficiency gains

**2.4.34** The Office's 1990-1992 Information Technology Strategic Plan identified the need for an integrated time recording and costing system. It recognised that the nature of valuation activities, which require valuers to work both within Head Office and at remote locations, would necessitate an on-line system which enables valuers to directly enter the time spent at various stages of each valuation. Such a system would enable invoices to be automatically generated.

**2.4.35** The Plan indicated that the new system would be implemented by October 1990. As limited progress has been made to date, **the improved accountability of Office staff and cost savings identified in the Plan have not been realised.**

**2.4.36** It is evident that the Office will not be in a position to move to a pricing structure for its commercial activities based on full cost recovery, or to establish a sound management reporting framework for Office activities, until the proposed system is in place.

- *RESPONSE provided by Secretary, Department of Finance*

*The implementation of an appropriate costing system to underpin the pricing of services is essential and it will be implemented.*



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# Section 2.5

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# Resourcing

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## OVERVIEW

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**2.5.1** The Office employs 103 staff of whom approximately 70 are qualified valuers. In addition, private sector valuers are engaged by the Office, on contract, to assist in valuation activities.

**2.5.2** Given that market conditions result in fluctuations in the demand for the Office's services, the resource needs of the Office can vary in line with market changes. However, as the majority of the Office's valuation staff are engaged on a permanent basis, the Office has limited flexibility to adjust to these changing resource requirements.

**2.5.3** **Audit concluded that the Office would be in a better position to respond to changes in demands for its services if greater resource flexibility was provided to enable the use of contract valuers or the allocation of work to the private sector in cases where it is demonstrated to be more cost-effective.**

- *RESPONSE provided by Secretary, Department of Finance*

*The strategies for adequate resourcing, including use of private contractors, will be examined as part of the overall management review*

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## STAFF TURNOVER

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**2.5.4** Audit analysis of the level of staff turnover in the Office, during times of increased property market activity, found that **over the 5 year period from July 1987 to June 1991, 49 experienced valuers, or the equivalent of 67 per cent of the current staff level, left the Office.** The Office indicated that this was due primarily to the high level of demand for valuers and the attractive salaries offered within the private sector.

**2.5.5** While staff turnover rates have decreased in recent years, the previous losses of experienced staff have adversely impacted on the ability of the Office to deliver an effective and timely service. For the 3 years ending 31 December 1992, an average of 15 600 fee paying valuations had been performed each year at a cost of \$190 per valuation. In 1991-92, when actual valuations decreased to 10 258, the average cost of each valuation increased to \$290. This variation has resulted to some extent from the greater complexity of the work undertaken. However, the inexperience of staff may have also contributed to the additional cost of completing each valuation.

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## CONTRACT VALUERS

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**2.5.6** The Office has traditionally contracted only a limited amount of work to the private sector. Contract valuers have generally been used in circumstances where:

- ▶ there has been a lack of Office resources to perform the task; and
- ▶ a private valuer has specific experience required in a particular area.

**2.5.7** Audit analysis of valuations performed between June 1987 and December 1992 indicated that less than 3 per cent of all valuations had been performed by contract valuers.

**2.5.8** Audit found that **a number of factors have inhibited the increased utilisation of contractors to perform valuation activities on behalf of the Office, even in circumstances where it could result in overall cost savings to the public sector.** Comment on some of these factors follow.

### Constraints on the engagement of contractors

**2.5.9** The Office has not been provided with specific funds through the annual appropriation process to engage contract valuers and in accordance with existing legislative requirements pays all funds received from client agencies to the Consolidated Fund. Fees charged for valuation services are therefore not available to the Office to engage contractors. To overcome these funding constraints, contractors engaged by the Office have been paid directly by the client agency. However, as the Office has retained full responsibility for valuations undertaken by contractors, it has incurred certain administrative costs for the arrangements, including those associated with:

- ▶ the identification of the need for a contract valuer;
- ▶ the selection of the contract valuer;
- ▶ review of the valuation work performed; and
- ▶ administration of the collection of fees.

**2.5.10** While fees charged within the private sector have, in some cases, been less than those charged by the Office, the Office has been unable to take advantage of these market conditions in the engagement of contractors. As client agencies have paid contractors as agents of the Valuer-General, they have been required to pay the rates specified within Regulations.

**2.5.11** These circumstances have been considered by the Office as a disincentive for any increased usage of contract valuers.

**2.5.12** Correspondence between the Office and the former Department of Management and Budget as long ago as February 1989, suggested 2 possible solutions to this situation, namely:

- ▶ the establishment of a working account which would allow direct payment to the contractor by the Office rather than by the client agency; and
- ▶ the inclusion of an administrative fee in the contract amount.

**2.5.13** The solutions proposed by the Valuer-General would enable the Office to take advantage of lower market rates currently offered by contractors and transfer the benefits of the lower rates to the agencies requesting the service. To date no action has been taken in this regard.

### Management of contracts

**2.5.14** Audit also found that **a number of deficiencies existed in the administrative arrangements for the engagement of valuers on an agency basis.** In particular:

- ▶ Under current arrangements, valuers are not required to sign a contract for their engagement. To ensure that quantitative and qualitative terms and conditions are clearly specified in relation to contract arrangements, audit considers that formal contracts need to be in place;
- ▶ A formal process of regularly assessing the performance of individual contract valuers has not been established;
- ▶ A procedure manual and guidelines for the engagement and monitoring of contract valuers has not been developed. Such a framework is needed to promote consistency and to assist in measuring the performance of contract valuers; and
- ▶ A register of preferred contract valuers has not been established. The establishment of a register would improve the efficiency of the selection process.

■ *RESPONSE provided by Secretary, Department of Finance*

*The strategies for resourcing the Office will be examined as part of the overall management review. Flexibility in setting fees will be adopted, as will mechanisms by which variations in workload can be addressed to ensure that response times are improved. The review will also address the appropriate use of private contractors.*

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# Section 2.6

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# Municipal Monitoring Services

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## OVERVIEW

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**2.6.1** In October 1990, the Government commissioned a review of all aspects of the operation of land tax in the State. A report issued in August 1991, entitled *Land Tax Review - Victoria* made a number of recommendations in relation to the role of the Office in the land tax system.

**2.6.2** While the Valuer-General prepared a formal response to the report in July 1992, little progress has been made on the implementation of the recommendations contained in that report.

- *RESPONSE provided by Secretary, Department of Finance*

*Land Tax Review recommendations are under consideration by the Government*

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## USE OF MUNICIPAL VALUATIONS

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**2.6.3** Unlike other States in Australia where valuations for local government rating purposes are undertaken centrally by the State Valuer-General, such valuations in Victoria are undertaken separately by each of the 205 municipalities within the State. The Valuer-General has a statutory obligation under the *Valuation of Land Act 1960* to oversee and co-ordinate municipal valuations in addition to guiding and assisting municipal valuers in the conduct of general valuations. This activity is aimed at achieving one of the Office's objectives of improving valuation standards in Victoria.

**2.6.4** In accordance with the Act, local councils are required to provide a copy of their valuation information to all State rating and taxing authorities on request. The information is used by a number of public sector bodies including the State Revenue Office (for land tax purposes), Melbourne Water Corporation and the Rural Water Corporation (for rating purposes).

**2.6.5** The municipal valuation cycles specified in the Act for metropolitan and rural municipalities are 4 years and up to 6 years, respectively. The cycle represents the period of time over which a valuation remains in force for rating and taxing purposes. Each council analyses all property sales within the particular municipality, generally over a period of 6 months before and after the valuation date. The assessed value is then disclosed on rate notices and forms the basis on which both land tax and municipal rates are calculated. The role of the Valuer-General in this process is to analyse, as a minimum, a one per cent sample of the assessments and issue a *generally true and correct* opinion on the appropriateness of the valuations. Thereafter, no variations can be made to the valuation during the municipal valuation cycle unless a supplementary valuation is undertaken or an objection from a ratepayer or taxpayer is successful.

**2.6.6** For land tax purposes an equalisation factor, calculated by the Office, is applied to each site value in the years between valuations to reflect annual changes in land values. This equalisation factor is determined on the basis of relative movements in the price of residential, commercial and industrial properties, weighted to produce a single factor for each municipality.

**2.6.7** The latest completed municipal valuation cycle for the metropolitan area ended in September 1992 and covered approximately 1.3 million assessments. The cycle for the 156 rural municipalities undertaken over a 6 year period, involved around 620 000 assessments. Whereas the costs of the valuation process are shared by councils and other users of the information, **the cost of the supervisory function carried out by the Office, amounting to around \$1.5 million, is met directly from the Office's annual appropriation.**

**2.6.8** As stated in paragraph 2.4.3 of this Report, consideration should be given to allocating the cost of the service to those State or local government agencies who benefit from the service.

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## LAND TAX REVIEW

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**2.6.9** Land tax imposed on Victorian property owners has been an important source of State revenue for many years amounting to around \$485 million in 1992-93. During the 1980s, as a result of the volatile property market, there was a significant increase in land tax revenue due to a general rise in land values. The subsequent disquiet from taxpayers concerning the impact of these increases resulted in a review in October 1990 of all aspects of the operation of land tax in the State. The principal objective of the review was:

*"... to provide a basis for the long-term stability of the Victorian Land Tax system and its continuing community acceptance by a significant restructuring of the present arrangements".*

**2.6.10** An integral part of the review's terms of reference was a requirement to make recommendations for changes in the following areas of Office activity:

- ▶ the arrangements for determining land values for land tax purposes; and
- ▶ the equalisation process.

**2.6.11** Following the review, a report entitled the *Land Tax Review - Victoria* was issued in August 1991. The report highlighted a number of factors aimed at improving the system and included recommendations that the Valuer-General should:

- ▶ Develop a set of standards to guide municipalities in arranging for the conduct of valuations by contract valuers and for the subsequent determination of a *generally true and correct* opinion;
- ▶ Develop amendments to the *Valuation of Land Act 1960* relating to determination of minimum fees for general valuations. The fee would then be a matter between the municipality and the selected contract valuer, subject to compliance with the standards referred to in the above recommendation;
- ▶ Be responsible for negotiating and over-sighting arrangements with municipalities on behalf of all State users of municipal valuations;
- ▶ Co-ordinate a joint examination with other relevant rating agencies of the possibility of integrating the separate State valuation data bases into a single comprehensive record maintained by the Valuer-General in line with the practice in other States;
- ▶ Negotiate with municipalities to shorten the metropolitan and rural valuation cycles as far as possible and to reduce the time taken to return valuations to user agencies, without significant additional cost, in addition to reducing the time taken by the State Revenue Office to adopt municipal valuations;
- ▶ In conjunction with the former State Taxation Office, develop a system of multiple equalisation factors, taking into account different types of land use and other improvements as a first step towards an improved basis for adjustment of valuations between general valuations. The multiple equalisation factors were to be introduced as quickly as possible, preferably from January 1993; and
- ▶ Develop a system of computer-assisted adjustment of individual land values based on comparable sales data. The report indicated that this should, in due course, replace the system of multiple equalisation factors currently in use.

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## **ACTION TAKEN TO ADDRESS RECOMMENDATIONS**

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**2.6.12** The Valuer-General released a response in July 1992 entitled "*Report on Valuation Issues of the Land Tax Review of Victoria*". This response was requested by the then Treasurer to provide the basis for amending the *Valuation of Land Act 1960*, the *Local Government Act 1989* and the *Land Act 1958*.

**2.6.13** The response addressed each recommendation individually and provided alternatives for the most effective method of implementation together with the level of resourcing required by the Office.



**2.6.14 Notwithstanding the response from the Office, little progress has been made to date on the implementation of the above recommendations. Consequently, any benefits expected to flow to government from greater efficiencies, in the collection and use of valuation data, have not yet been achieved.**

■ *RESPONSE provided by Secretary, Department of Finance*

*The recommendations in the Land Tax Review are currently under consideration by the Government. The Office of Local Government has recently released a Rating Review Discussions Paper which is to be considered along with the recommendations of the Review.*

*The role and responsibilities of the Office may need to be reviewed following decisions being made on the recommendations of the Land Tax and Rating Reports.*

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## Section 2.7

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# Asset Recording and Reporting Project

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## OVERVIEW

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**2.7.1** In 1989, the Treasurer approved an Asset Recording and Reporting Project which comprised the establishment of a central computerised asset register for valuation and property management advice purposes. The identification and subsequent valuation of public sector land and buildings by the Office was to be conducted over a 3 year period commencing in 1990. The Department of Finance now has overall responsibility for the management of the Project.

**2.7.2** In 1991, the Project completion time was extended from 3 to 5 years due to difficulties with:

- ▶ agencies accurately identifying the extent of their property holdings;
- ▶ planning for the implementation of the Project; and
- ▶ obtaining specific funding for the Project.

**2.7.3** **Despite the Project's time extension, the Office remains unable to guarantee completion within this time frame as a result of the poor condition of public sector asset records and resource constraints.**

**2.7.4** The identification and valuation of public sector property assets through the Project is essential to improved resource management and the preparation of meaningful financial statements, especially within the budget sector and at a State level.

- *RESPONSE provided by Secretary, Department of Finance*

*Responsibility for asset management (including accrual accounting) rests with individual departments who will also be required to meet the cost of asset valuations.*

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## INTRODUCTION

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**2.7.5** The Auditor-General's *Special Report No. 9, Land Utilisation*, issued in November 1987, stated:

*"... in view of the size and value of government real estate and the need to maximise use of this property for the general benefit of the public, there is an urgent need to establish asset registers and associated management information systems and performance indicators".*

**2.7.6** The Report also concluded that:

*"The adoption of accrual accounting by government departments, which would involve establishing asset registers, and the disclosure of the current market value of real estate assets in the financial statements of government agencies is seen as a key element in improving the accountability of government agencies for the real estate assets they control."*

**2.7.7** The former Minister for Property and Services subsequently nominated the Valuer-General's Office as the public body in the best position to establish and maintain a centralised asset register, as it already had a comprehensive collection of valuation data for a large number of public assets. The accuracy and completeness of the Office database was intended to be updated using a cyclical revaluation program, together with other existing Office systems such as those supporting the monitoring of municipal valuations, valuation indices and associated statistics released periodically by the Office.

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## IMPLEMENTATION OF THE PROJECT

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**2.7.8** In order for the Asset Recording and Reporting Project to be completed in an efficient and effective manner, the Office, through the Department of the Treasury, requested that each budget and non-budget sector agency submit a detailed listing of its property holdings together with the latest practicable date by which the valuation would be required. Initial investigations revealed that agency property records were at various stages of development with differing reporting formats and, as a result, an accurate assessment of total properties to be valued could not be determined. In particular, a number of agencies which manage a significant portion of real estate property were unable to accurately identify the extent of their property holdings. **It is now almost 4 years since the Project was established and some agencies are still to respond to the initial request for details of property holdings.**

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## PROJECT PLANNING

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**2.7.9** While an accurate calculation of the total number of properties to be valued is still not available, the most recent estimate prepared by the Office in June 1991 puts the number at well over 70 000.

**2.7.10** The absence of accurate information has affected the ability of the Office in planning for the implementation and completion of the Project and, to date, **relevant requests have been handled in an ad hoc manner as resources become available.**

## FUNDING OF THE PROJECT

2.7.11 With the exception of an allocation made in 1993-94 of \$100 000, specific funding for the Project has not been provided. Since 1989-90 the Office has funded its role in the Project from within its existing resources. The Office advised that, in recent years, staff losses and budget restrictions have resulted in the Project being afforded a lower priority.

2.7.12 In 1992, the Office calculated the additional funding requirements necessary to perform the required valuations over a 5 year cycle. These requirements are set out in Table 2.6A.

**TABLE 2.6A**  
**PROJECT FUNDING REQUIREMENTS**  
(\$'000)

<i>Financial year</i>	<i>Amount</i>
1992-93	268
1993-94	261
1994-95	268
1995-96	228
1996-97	140
<b>Total</b>	<b>1 165</b>

2.7.13 Additional funding will also be required for the ongoing task associated with periodically updating valuations and maintaining the database.

2.7.14 There is a need for government to determine the relevant priority of this Project in comparison with the other activities performed by the Office. If it is considered that the Project needs to be afforded a high priority, action should be taken by the Department of Finance to ensure that the required resources are allocated to the necessary tasks.

## CURRENT STATUS OF THE PROJECT

2.7.15 In November 1991, the former Treasurer was advised that the target completion of the Project was to be extended from 3 to 5 years with completion estimated in 1996. However, **the Office advised audit that it cannot guarantee completion of the Project even by this extended date due to resource constraints and the continuing poor condition of public sector asset records.**

**2.7.16** As indicated in the recent *Report of the Victorian Commission of Audit*, issued in May 1993:

*"... the continuing practice within the budget sector of reporting primarily on a cash basis has prevented government agencies and the State as a whole from discharging their responsibilities to be accountable ... without full financial information it is not possible to adequately control the net cost of services provided, or outputs acquired from an agency by a government. Cash-based information, as currently produced, does not address the cost of employing depreciable assets and obscures the impact of debt and other liabilities on the cost of services".*

**2.7.17** The Report also referred to the fact that the Government has acknowledged that accrual accounting will give an impetus to improved asset management.

**2.7.18** **The identification and valuation of all property assets through the Asset Recording and Reporting Project will be essential to the preparation and publication of meaningful accrual based financial statements by all budget sector agencies and by the State.**

■ *RESPONSE provided by Secretary, Department of Finance*

*Effective asset management (including implementation of accrual accounting) in the budget sector will require appropriate asset valuation. The initial responsibility for achieving this rests with the individual departments which will be required to meet the cost of asset valuations, whether undertaken by the Office or by private valuers.*

*The Office has been allocated additional funding of \$100 000 in 1993-94 to develop an asset database that will enable annual valuation updates to be completed quickly and economically.*

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# Section 2.8

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# Strategic Management

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## OVERVIEW

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**2.8.1** The Valuer-General has an important role to play in the property-related activities of government. The achievement of Office objectives and the efficient and effective performance of its functions requires:

- ▶ a strategic planning framework;
- ▶ meaningful performance indicators; and
- ▶ accurate, relevant and timely information for monitoring and decision-making purposes.

**2.8.2** **Audit found that while the Office had developed a Business Plan for 1990-1992, its achievements against targets specified in the Plan had not been assessed. In addition, the overall management and monitoring of Office activities had been inhibited by deficiencies in its information systems.**

- *RESPONSE provided by Secretary, Department of Finance*

*As part of the Government's Management Improvement Initiative a new Business Plan will be developed for the Office which will include a comprehensive set of performance indicators. Information technology (IT) systems have been reviewed and strategies to improve them have been identified.*

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## OFFICE BUSINESS PLAN

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### Objectives and targets

**2.8.3** Given the importance of the Office's role in the valuation area and the previously highlighted changing environment in which it operates, it is essential for the Office to have in place a sound strategic framework for its operations.

**2.8.4** **A positive initiative taken by the Office in this regard was the preparation in 1990 of a Business Plan.** The Plan identified the following key objectives for Office operations:

- ▶ improved client services;
- ▶ improved productivity;
- ▶ provision of a broader range of services; and
- ▶ improved valuation standards in Victoria.

**2.8.5** It also identified the strengths and weaknesses of the Office and established a number of specific strategies and targets to be achieved over the 2 year life of the Plan.

**2.8.6** **Audit found that while the Office had evaluated outcomes against certain goals, it had not formally monitored and evaluated the achievement of each specific target included in the Plan.** As highlighted in this Report, a number of the targets had not been met.



## Update of the Business Plan

**2.8.7** Although the operating environment of the Office altered considerably during the life of the Plan, **the Office had not formally reviewed the Plan to assess whether the objectives and targets of the Office remained relevant.** Although a new Plan was due for development in mid-1992, at the completion of the audit in August 1993 the preparation of the Plan had not been commenced.

- *RESPONSE provided by Secretary, Department of Finance*

*As part of the Government's integrated management cycle and the development of the Department's Business Plan, a new Business Plan will be developed for the Office. This Plan will reflect government policy in relation to contracting out of services, performance targets and resource allocation.*

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## PERFORMANCE MEASUREMENT

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**2.8.8** Performance measurement is the principal method used by an organisation to gauge the achievement of corporate objectives and strategies. Performance indicators which address the organisation's stated objectives can also assist in:

- ▶ short and long-term planning;
- ▶ identifying trends in various activities; and
- ▶ meeting legislative reporting requirements.

**2.8.9** The Office has recognised the need to establish performance measures and currently uses a number of indicators, both financial and non-financial, which are produced in a Monthly Business Report provided to senior management of the Office and to the Department of Finance. The Office's *Annual Report* also contains certain performance indicators such as the number and value of valuation requests received and completed during the year.

**2.8.10** While the Reports provide a measure of Office activities in many areas, audit considers that there is a need for a review of the data available to senior management of the Office for management and planning purposes. **Such a review should be aimed at achieving a more meaningful measurement of performance against the Office's specific targets.**

- *RESPONSE provided by Secretary, Department of Finance*

*The new Business Plan for the Office will include a comprehensive set of relevant performance indicators including general valuation work and the statutory functions relating to Statewide valuation standards and performance.*

## INFORMATION SYSTEMS AND SERVICES

**2.8.11** The Information Systems and Services Division of the Office has a significant impact on the achievement of corporate objectives as its operations directly impact on the quality and timeliness of client services and on the data available to senior management for planning and decision making purposes.

**2.8.12** The Office's 1990-1992 Information Technology Strategic Plan prioritises a number of system changes necessary to improve service delivery together with target dates for their completion.

**2.8.13** Audit found that many of the targets set within the Plan have not been met and, as a result, numerous limitations and inefficiencies continue to exist within the Office's information systems. Comments on a number of these systems follow.

### Limitations of current systems

#### *PC-Prism Software*

**2.8.14** PC-Prism provides current sales information and historical sales statistics to Office staff and external users, together with purchasers of the software (mainly private valuers and other government agencies).

**2.8.15** During the development of the software it was envisaged that it would be sold to approximately 200 clients and would produce revenue of around \$160 000.

**2.8.16** At December 1992, 27 software packages had been sold, generating revenue of only \$20 000. Given this low return, audit considers that the continued high priority assigned to the development of the system is questionable.

#### *Assets system*

**2.8.17** This system was developed to support the Asset Recording and Reporting Project and centrally records all valuations of government property and land assets. The system was not formally planned and has developed in an ad hoc manner with new facilities or information fields introduced as needed. Audit was advised that enhancements required to the System to enable it to efficiently produce the required information have not yet been developed.

#### *Accounts Receivable and Accounting System*

**2.8.18** The Office's current accounting system is slow in providing information and performing calculations and is subject to frequent failure. The lack of external support for the product, due to its age, generally results in staff finding it difficult and time consuming to locate problems.

**2.8.19** The Office has recognised the need for a new accounting system to improve the provision of financial information. Audit considers that as part of the process of developing such a system, **consideration should be given to the integration of the accounting system with an effective time recording and costing system.**

## Staff resourcing of systems development

**2.8.20** The projects identified within the Office's 1990-1992 Information Technology Strategic Plan were to be completed within the 2 year period, based on the staff resources available at the time the Plan was developed. The Division suffered a 43 per cent reduction in the actual number of staff employed between June 1990 and December 1992. As a result, **many of the system changes and enhancements detailed in the Plan have not been completed.** In addition, audit was advised that the extent of systems support to users has also decreased.

## Update of Information Technology Strategic Plan

**2.8.21** While the 1990-1992 Information Technology Strategic Plan was a positive initiative of the Office, the following limitations were identified with respect to its implementation and update:

- ▶ **The Office has not formally reviewed the progress made to date on implementation of the Plan.** Audit considers that the Plan should be continually reviewed and reassessed to ensure that the priority given to the tasks detailed in the Plan remain relevant;
- ▶ In order for the Division to identify current user needs, it is necessary for an effective method of communication and feedback to be in place. The Office has not undertaken any reviews, surveys or questionnaires of user needs. Audit considers that **such mechanisms would be an effective tool for canvassing a large cross-section of users;** and
- ▶ The Plan was due for review in July 1992, however, action on this matter is yet to be taken. **It is important for the Office to review the progress made on the 1990-92 Plan and determine realistic information technology priorities and timelines for the next period which are consistent with the overall strategic direction of the Office.**

■ *RESPONSE provided by Secretary, Department of Finance*

*Effective IT systems to support the business operations of the Office are recognised as being an essential requirement.*

*An IT review has now been completed and specific opportunities for improvement in IT systems and performance have been identified. The improvements will now be progressed as part of the overall review of the Office.*

