

Management and accountability



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Corporate governance

The Attorney-General's Department's governance framework includes appropriate committee and oversight structures, risk management, fraud control, strategic and business planning, project management, business continuity, performance management, audit and evaluation, and financial management elements.

Senior leadership

Secretary

Roger Wilkins AO

Deputy secretaries

David Fredericks, Civil Justice and Legal Services Group

Elizabeth Kelly, Strategic Policy and Coordination Group

Tony Sheehan, National Security and Criminal Justice Group

First assistant secretaries

Iain Anderson, Criminal Justice Division

Jane Bailey, Information Division

Bill Campbell QC PSM, General Counsel (International Law)

Campbell Darby DSC AM, Emergency Management Australia Division

Kym Duggan PSM, Social Inclusion Division

James Faulkner PSM SC, General Counsel (Constitutional)

Warwick Finn, National Security Capability Development Division

Louise Glanville, Access to Justice Division and Strategy and Delivery Division

Maggie Jackson, Corporate Counsel

Katherine Jones, International Crime Cooperation Division

John Leahy PSM SC, Office of Legislative Drafting and Publishing

Stephen Lutze, Corporate Division

Greg Manning, International Law and Human Rights Division

Geoff McDonald PSM, National Security Law and Policy Division

Matt Minogue, Civil Law Division

Mike Rothery, National Security Resilience Policy Division

The governance framework

The department's core governance forums are the:

- Executive Board
- Secretary's Reviews
- Senior Management Committee
- Audit and Risk Management Committee
- Investment Review Board.

Other governance elements include the Chief Executive Instructions, the Strategic Plan 2010–12, the developing 2012–15 Strategic Plan, divisional business plans, performance reporting, risk management framework, fraud control plan and business continuity program.

Senior management committees

The Executive Board comprises the Secretary and the three Deputy Secretaries. It advises the Secretary on:

- the administration of the department
- the strategic direction of the department
- matters referred for decision by the Senior Management Committee.

The Senior Management Committee comprises the three Deputy Secretaries and each First Assistant Secretary. It is a forum for discussion by senior executive staff on strategic issues confronting the department and assists the department in achieving strategic and operational aims, and on monitoring departmental performance against a range of business strategies.

The Secretary's Reviews are quarterly meetings between the Secretary and the senior management of each division to discuss developments around the department's strategic priorities and to receive status reports on divisional progress against business plans.

The Audit and Risk Management Committee comprises a chair and four members. The chair and one member are external to the department; and the other three members are departmental staff members. Additionally, the Secretary, the Chief Financial Officer, the First Assistant Secretary – Strategy and Delivery Division, the Chief Audit Executive; and the Australian National Audit Office are represented at the meetings.

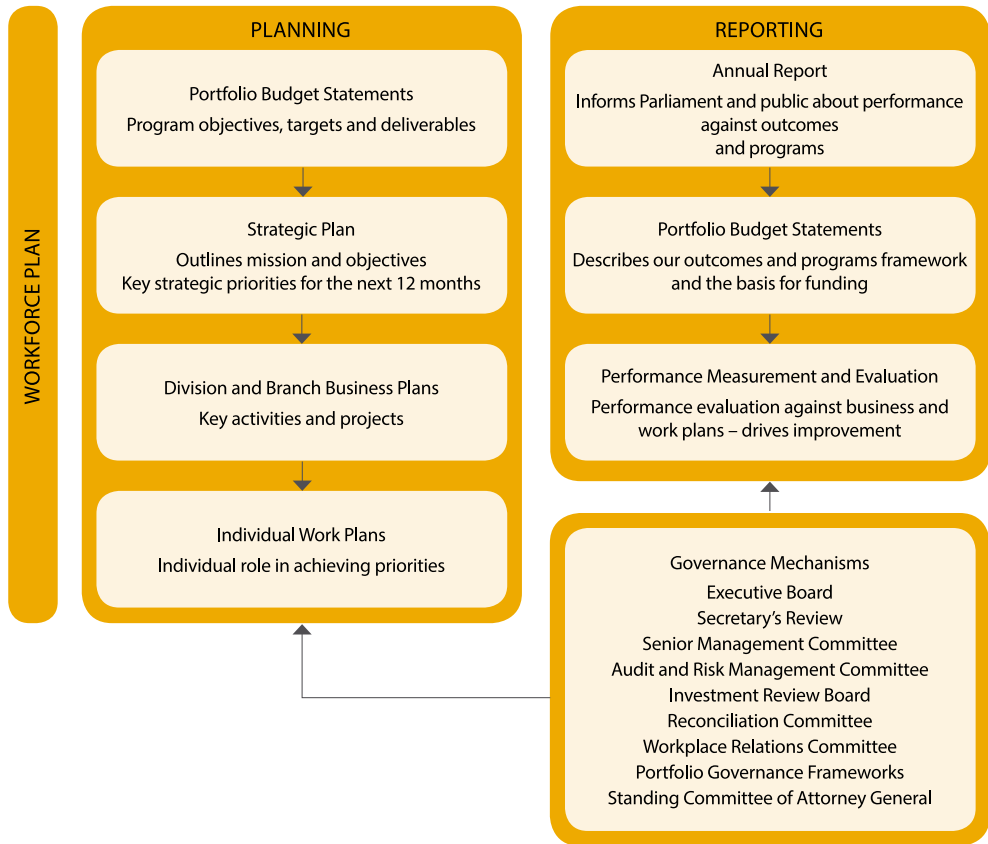
The Audit and Risk Management Committee advises the Secretary on the department's systems of internal controls, risk management (including fraud risk), financial reporting, compliance with laws, and internal and external audit matters. The Committee met seven times during 2011-12.

The Investment Review Board comprises the three Deputy Secretaries and each First Assistant Secretary. The purpose of the Investment Review Board is to provide direction and leadership ensuring capital investments and projects are aligned with the department's strategic priorities and are financially sustainable.

Planning and review

The department's planning and performance framework is designed to ensure that activities and outcomes are aligned with priorities set by the Australian Government and that mechanisms are in place to review these. Figure 12.1 provides an overview of the department's planning and performance framework.

Figure 12.1: Planning and performance framework, 2011–12



Risk management

The department’s risk management framework is based on the Comcover *Better Practice Guide: Risk Management* and AS/NZS ISO 31000:2009, *Risk Management Principles and Guidelines*. The framework addresses communicating policy and accountability, integrating risk management into business planning, review and monitoring processes, and developing a positive risk culture.

The department conducted facilitated Group and division risk identification sessions and developed a consolidated register of enterprise risks which are periodically considered by the Senior Management and Audit and Risk Management Committees.

The department’s Strategic Planning and Governance Section supports divisions on implementation of the risk management framework and provides status reports to the Audit and Risk Management Committee as a standing agenda item.

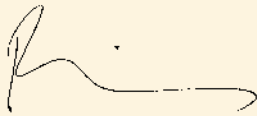
Fraud control

The department has a comprehensive fraud control management model which includes the department's Fraud Control Plan, regular reporting to the Audit and Risk Management Committee, separate functional areas for fraud control policy and fraud investigation, fraud awareness training, and inclusion of fraud risks within overall business risk assessment processes. The department's Fraud Control Plan complies the *Commonwealth Fraud Control Guidelines 2011*.

CERTIFICATION OF DEPARTMENTAL FRAUD CONTROL ARRANGEMENTS

I, Roger Wilkins, certify that I am satisfied that for 2011-12, the Attorney-General's Department has:

- prepared fraud risk assessments and fraud control plans
- in place appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes that meet the specific needs of the department, and
- taken all reasonable measures to minimise the incidence of fraud in the department and to investigate and recover the proceeds of fraud against the department.



Roger Wilkins AO
Secretary
22 August 2012

Conduct and ethics

The *Attorney-General's Department Enterprise Agreement 2011* contains a commitment by the parties to delivering high quality professional public service in accordance with the APS Values. As part of the department's induction program, new starters attend a session on the Values and Code of Conduct. The department also offers online training to all staff on the Values and Code of Conduct which all new staff are encouraged to complete. All new employees are provided with a copy of the APS Values and Code of Conduct, as well as relevant excerpts from the *Crimes Act 1914*, and must sign a statement asserting that they have read and understood these provisions.

Information sessions are also provided to individual work areas to cover specific ethics and conduct issues as particular needs are identified. The department participates in the APSC's Ethics Contact Officer network and information is available to employees regarding the ability to contact the Ethics Advisory Service direct to discuss any ethical concerns that they may have.

The APS Values, Code of Conduct, Chief Executive Instructions and other material relevant to ethical conduct are incorporated, as appropriate, into relevant departmental policies, guidelines and instructions, and are available on the department's intranet.

Senior Executive Service remuneration

The terms and conditions for all current SES employees are covered by individual determinations made under section 24(1) of the *Public Service Act 1999*.

Remuneration for an SES employee, as set out in the section 24(1) Determinations, includes base salary, an Executive Vehicle Scheme vehicle or cash-in-lieu, a car park and superannuation.

Performance pay is not available to SES employees under the section 24(1) determinations.

Further information about SES remuneration appears on page 214.

Media and communications

The Strategic Communication Branch is responsible for providing strategic communication advice and services to the department, including media and crisis management, corporate communications, and the delivery of communication strategies and campaigns. During the year the branch introduced a Strategic Communication Framework to build capability and emphasise the importance of effective communication strategies to support policy and program work.

Media and crisis communications

In its crisis communication role, the branch coordinated the Australian Government's public communication functions during the eastern seaboard floods and the floods that impacted large parts of Queensland, New South Wales and Victoria, and for Cyclone Yasi.

Public communication support was also provided for a range of security incidents, including Norway 2011; Department of Agriculture, Fisheries and Forestry bomb hoax 2011; and the Air Mauritius Melbourne Airport bomb hoax 2012.

The branch's role in supporting whole-of-government public communication during a disaster also involved training and management of a sixty person national media liaison pool that operates as part of the Public Communication function of the Australian Government's Crisis Coordination Centre.

In this role the media and crisis communication team also participated in sixteen jurisdictional preparedness exercises, delivered media liaison officer training in each state and territory, and provided public communication support for ten Australian Government exercises.

The team was also responsible for managing the public communication security media arrangements for the Commonwealth Heads of Government Meeting, held in Perth in October 2011.

Extensive security media planning has also begun for the upcoming G20 meeting, the Asia Cup and the Cricket World Cup.

The team handled 368 media releases and 689 media enquiries during the year across a wide range of issues. It also supported key communication initiatives within the department, including criminal, civil justice and national security reforms.

Strategy and campaigns

The branch continued work on two funded public information campaigns and the development and implementation of communication strategies to support programs and policies.

The branch implemented the Personal Property Securities (PPS) Campaign which aimed to raise business and consumer awareness of PPS reform and to drive users to the new, national PPS Register. The campaign ran from 23 January until 30 June 2012 and included national print, online and radio advertising.

The National Security Public Information Campaign ran from 4 September until 8 October 2011 leading up to the Commonwealth Heads of Government Meeting in late October. The advertising activity consisted of metropolitan and regional radio (including print-handicapped and in-language radio). The radio advertisement was translated into twelve languages in addition to English. The advertisements aim to increase the public's intention to report suspicious actions, behaviours or events to the National Security Hotline to help protect Australia from terrorism.

Work to prevent chemicals from misuse by terrorists continued, with the branch implementing a public relations campaign that secured over thirty feature articles in industry association newsletters and magazines that reached thousands of high risk industry groups at no cost to the department. Work also included other awareness raising and outreach activities such as hosting industry trade shows and developing targeted information products to build industry and consumer vigilance.

The branch also assisted divisions with the development of communication strategies covering topics including contract law, family law, graduate recruitment, learning and development, fraud control, disaster resilience, identity security, alternative dispute resolution, intellectual property and emergency management.

Corporate communications

The branch coordinated the editing, design, typesetting and printing of more than 150 publications and collateral materials including the Strategic Plan 2012-2015, the Communication Framework and the Social Media Policy. The branch also coordinated the production and tabling of the 2010-2011 Annual Report and was involved in a range of communication activities, including the design and promotion of the Strategic Plan, design and promotion of the Graduate Recruitment program, the promotion of NAIDOC week and the Mabo 20th Anniversary, and the design and promotion of the Leading and Development program. The branch was responsible for the redevelopment of the departmental website and coordinated the delivery of the planning and design phase of this project. As part of the branch's ongoing focus to improve internal communications, the intranet structure was redesigned and over fifty departmental news articles and videos were published on the site.

Reconciliation Action Plan and Reconciliation Committee

The department is committed to reconciliation between Aboriginal and Torres Strait Islander people and non-Indigenous people for the benefit of all Australians. The department's Reconciliation Action Plan (RAP) is implemented and maintained by the department's Reconciliation Committee. The Committee focuses on engaging with staff to develop and promote cultural awareness and includes representatives from the senior management team, Indigenous Network, line divisions and Indigenous and non-Indigenous staff. The department is involved in the Attorney-General's Portfolio Reconciliation Network and co-hosted an event during National Reconciliation Week to reaffirm our commitment to the Portfolio's Statement of Commitment.

The department also participates in celebrating events of significance to Indigenous people including National Reconciliation Week, NAIDOC Week, Sorry Day and Mabo Day.

Corrections to errors in the 2010–11 annual report

- on page 186, the total funding received by the Northern Territory Aboriginal Interpreter Service was listed as \$1.8 million. The correct figure is \$2.5 million, including \$1.2 million under the ongoing appropriation and \$1.3 million under the Closing the Gap initiative. This figure includes \$750,000 additional funding, listed on page 87, to progress recommendations identified in the Commonwealth Ombudsman's report *Talking in Language: Indigenous language interpreters and government communication*
- on pages 90 and 186, the number of projects identified as funded under the Indigenous Justice Program was incorrect. There were 57 projects funded under the Program in 2010–11, including twelve Petrol Sniffing Strategy Projects
- on pages 71 and 89, the number of community engagement officers in the Northern Territory was incorrectly identified as 12. The correct number is 8.
- on page 306, under the heading 'Extradition requests made by Australia', the figures reported that there were 22 new requests made and a total of 38 requests continuing. The correct figures are that there were 21 new requests made and a total of 37 requests continuing.
- on page 63, under the subheading Compliance with the Legal Services Directions 2005, the compliance figures reported for the 2010–11 financial year were incorrect.

Table 11.1: Investigation of possible non-compliance with the Legal Services Directions, 2010–11

Year	Matters carried forward	New matters	Examined and found non-compliant	Examined and found compliant	Matters still under review at year end
2010–11	6	38	17	8	16



“ building on the principles of respect, relationships and opportunities ”

OUR PEOPLE

David Fredericks, Deputy Secretary,
Civil Justice and Legal Services Group and
Theika Andrews, Access to Justice Division.



Portfolio commits to reconciliation

As a portfolio, we are proud to formally acknowledge Aboriginal and Torres Strait Islander peoples as the first Australians. In late 2011, the department signed the Attorney-General's Portfolio Indigenous Statement of Commitment. The statement brought existing individual statements from portfolio agencies together into one, symbolising a unified approach towards the advancement of reconciliation.

Reconciliation is a long-term goal that involves recognition of the first Australians and the provision of practical and effective measures to address the economic and social disadvantage experienced by many of them.

Deputy Secretary David Fredericks is the department's Reconciliation Champion. In this role, David works closely with the department's Reconciliation Committee and Indigenous Network to cultivate working relationships between the portfolio, other government agencies and Aboriginal and Torres Strait Islander peoples.

'I'm tremendously proud of the hard work our department and portfolio continues to do towards reconciliation and closing the gap on Indigenous disadvantage,' David said. 'One of the ways we demonstrate this commitment is through the Reconciliation Action Plan. This was built on the principles of respect, relationships and opportunities.'

Practical action detailed in the statement includes commitment to improve service delivery outcomes and support for Aboriginal and Torres Strait Islander peoples, employ more Aboriginal and Torres Strait Islander peoples in our agencies and increase our understanding, knowledge and appreciation of Aboriginal and Torres Strait Islander cultures.

Theika Andrews is the current chairperson of the department's Indigenous staff network. 'The department provides opportunities to Indigenous staff and supports Indigenous staff in celebrating significant days throughout the year. Together, we will continue to work on the retention and development of staff within the department,' Theika said.



External scrutiny

During 2011–12 the department's operations were subject to external scrutiny from the Australian National Audit Office (ANAO), the courts, parliamentary committees, the Commonwealth Ombudsman and the Information Commissioner.

Reports by the Australian National Audit Office

Development and approval of grant program guidelines

The Auditor-General undertook a cross-agency performance audit of the development and approval of grant program guidelines. The performance audit assessed the implementation and effectiveness of the enhanced grants administration requirements relating to the development and approval of new grant guidelines and revision of existing grant guidelines.

The ANAO surveyed all agencies subject to the *Financial Management Accountability Act 1997*, including the Attorney-General's Department.

The report of the performance audit was tabled in Parliament on 30 May 2012. The department agreed with the findings and in response will incorporate the improvements into internal policy guidance, training material and assurance processes.

Administration of grant reporting obligations

The Auditor-General undertook a cross-agency performance audit of the administration of grant reporting obligations. The performance audit assessed the implementation and effectiveness of the enhanced grants administration requirements for: (i) reporting to the Finance Minister on the awarding of grants within their own electorate by ministers who are Members of the House of Representatives; (ii) reporting to the Finance Minister on instances where ministers have decided to approve a particular grant which the relevant agency has recommended be rejected; and (iii) the website reporting of grants awarded.

The report of the performance audit was tabled in Parliament on 24 January 2012. The department agreed with the findings and in response will review internal controls, guidance and training material to ensure the better practice outlined within the report is incorporated into the department's practices.

Judicial decisions

Zotkiewicz & Commissioner of Police [No 2] [2011] FLC 93-472

This was an appeal to the Full Court of the Family Court of Australia in a matter under the Hague Convention on the Civil Aspects of International Child Abduction. The judge at first instance found that the child had acquired habitual residence in Poland.

In allowing the appeal, the Full Court discussed the concept of 'habitual residence' and noted that it was possible to lose habitual residence in one place but not yet acquire it in a new country of residence. Their Honours found that, in the particular circumstances of the case, the primary judge had failed to give sufficient weight to the appellant's evidence that she had begun to make plans to depart from Poland almost as soon as she had arrived. Had that evidence been properly considered, the question of whether there had been a settled common intention to live in Poland would have been answered differently. As a result, the burden of proving that the child had acquired habitual residence in Poland had not been discharged.

State Central Authority v Camden [2012] FamCAFC 45

This was an appeal to the Full Court of the Family Court of Australia in a matter under the Hague Convention on the Civil Aspects of International Child Abduction. The judge at first instance found that the children had not acquired habitual residence in the United Kingdom.

On appeal, the Full Court confirmed that *LK v Director-General, Department of Community Services* (2009) 237 CLR 582 remained authoritative in determining habitual residence and that *Zotkiewicz* did not introduce a new two limbed test as seemed to have been assumed at first instance. Accordingly, it was held that the children had been habitually resident in the United Kingdom at the time of their removal and the matter was remitted for a rehearing. The rehearing is due to take place on 30 July 2012.

Momcilovic v The Queen

On 8 September 2011, a majority of the High Court held in *Momcilovic v The Queen* (*Momcilovic*) that the relevant Victorian drug trafficking offence was not inconsistent with the Commonwealth drug trafficking offence and therefore was not invalid under section 109 of the Constitution.

Following *Momcilovic*, in April 2012, the Standing Council on Law and Justice requested the National Criminal Law Reform Committee to undertake work to review existing means for avoiding constitutional inconsistency between Commonwealth criminal laws and state and territory criminal laws and, if necessary, develop new proposals for avoiding such inconsistency.

A majority of the Court in *Momcilovic* also held valid provisions in the Victorian *Charter of Human Rights and Responsibilities Act 2006* (the Charter) requiring courts to interpret Victorian statutory provisions consistently with the human rights set out in the Charter and enabling the Victorian Supreme Court to make a declaration of inconsistent interpretation if statutory provisions could not be interpreted consistently with the Charter rights. The decision does not have implications for the Parliamentary scrutiny regime established by the Commonwealth's *Human Rights (Parliamentary Scrutiny) Act 2011*.

Commonwealth Director of Public Prosecutions v Poniatowska

The case of *Commonwealth Director of Public Prosecutions v Poniatowska* has clarified the way in which offences that can be committed by omission (ie failure to perform an act) should be interpreted.

In this case, the respondent, Poniatowska, had previously failed to disclose to Centrelink certain income received from her employer, and had received parenting payments to which she was not entitled as a result. The respondent pleaded guilty to the *Criminal Code Act 1995* offence of obtaining a financial advantage from a Commonwealth entity that she was not eligible to receive, but successfully appealed her conviction to the Full Court of the Supreme Court of South Australia on the grounds that she was not under a legal duty to report her income to Centrelink.

The Commonwealth Director of Public Prosecutions subsequently appealed this decision to the High Court of Australia. The High Court dismissed the appeal and found that omissions cannot be part of a criminal offence unless the offence criminalises the failure to do a specific thing, such as lodge a tax return or comply with a notice or the person is under a legal obligation to perform the particular act which they omitted to do. For Commonwealth offences, the relevant legal obligation must be one imposed by a law of the Commonwealth.

This case provides guidance on the interpretation of offences that seek to criminalise omissions and is of significance to the development of future Commonwealth offences.

R v Khazaal

On 10 September 2008 in the Supreme Court of New South Wales, Mr Khazaal was found guilty of making a document connected with a terrorist act, knowing of that connection, in contravention of section 101.5 of the Criminal Code. Mr Khazaal was sentenced on 25 September 2009 to twelve years imprisonment with a non-parole period of nine years. Mr Khazaal appealed his conviction and sentence, and on 9 June 2011, the New South Wales Court of Criminal Appeal set aside his conviction and ordered a retrial. The Commonwealth Director of Public Prosecutions appealed this decision, and the appeal was heard in the High Court on 2 March 2012. The High Court reserved its decision.

R v Ahmed & Ors

On 4 August 2009, five men in Victoria were charged with the offence of conspiring to do acts in preparation for a terrorist act under the Criminal Code. On 23 December 2010, the jury acquitted two men and found the other three men guilty of terrorism-related offences under the Criminal Code. On 16 December 2011, the Victorian Supreme Court sentenced Mr Fattal, Mr El Sayad and Mr Aweys to imprisonment for a period of eighteen years, with a

non-parole period of thirteen years and six months. This decision is currently under appeal. Subsequent to the reporting period, the High Court upheld the appeal and Mr Khazaal was taken into custody.

ASIC v Hellicar and Ors

A number of judicial decisions in 2011–2012 referenced the Commonwealth's obligation to act as a model litigant in the handling of claims and litigation brought by or against the Commonwealth, as required by paragraph 4.2 and Appendix B of the Legal Services Directions 2005. The most significant was the High Court decision in *ASIC v Hellicar & Ors* [2012] HCA 17, handed down on 3 May 2012. This case was an appeal by ASIC of the NSW Court of Appeal matter of *Morley & Ors v ASIC* [2010] NSWCA 331 in which the Court of Appeal found that ASIC, already bound by its obligation to act as a model litigant, also owed an obligation of fairness which required it to call a particular witness to give evidence.

In its reasoning, the High Court noted the Commonwealth's acceptance that ASIC, as a model litigant, is subject to an obligation to conduct litigation 'fairly, with complete propriety, and in accordance with the highest professional standards'. But the High Court did not accept the reasoning of the Court of Appeal that such an obligation required ASIC to call particular evidence. Nor did it accept that a breach of that obligation resulted in the discounting of evidence called to support ASIC's case.

The High Court noted that the procedural rules that govern all litigants apply uniformly to model litigants, without modification. The model litigant obligation does not extend to the question of which witnesses the Commonwealth should call, nor does the failure of a Commonwealth regulator to call a particular witness result in a breach of the obligation of fairness, nor result in the Commonwealth's case suffering in its cogency. The Court reinforced that the obligation to act as a model litigant specifically requires the Commonwealth and its agencies to act in accordance with traditional standards of fair play: to act fairly, with complete propriety, and in accordance with the highest professional standards in conducting litigation.

Optus v National Rugby League

On 2 February 2012, the Federal Court found that Optus did not infringe the copyright in television broadcasts of Australian Football League (AFL) and National Rugby League (NRL) games by providing its Optus TV Now service. Telstra was included in the litigation as an exclusive licensee of both the NRL and AFL. The Federal Court found that the recording fell within the exception found in s 111 of the *Copyright Act 1968*. Section 111 permits a person to record a television or radio broadcast for private and domestic purposes for watching at a more convenient time; an activity otherwise known as 'time-shifting'.

On 27 April 2012, the Full Federal Court decided the appeal in favour of the NRL, AFL and Telstra against Optus. The Court placed a different emphasis on the case, looking at who 'made' the copy of the broadcast. The Court found that the copy of the broadcast was made either by Optus alone or, its preferred view, by Optus and the Optus subscriber acting together in concert. The Court concluded that if Optus alone was the maker, it had infringed the copyright in the broadcasts.

Following the Full Federal Court's decision, Optus announced it would indefinitely suspend its TV Now Service. On 10 May 2012, Optus announced that it would seek special leave to appeal to the High Court. A hearing date has not yet been set.

Phonographic Performance Company Australia Ltd v Commonwealth [2012] HCA 8

On 17 February 2010 Phonographic Performance Company Australia (PPCA) and the four major record companies (EMI, Sony, Universal and Warner) initiated proceedings in the High Court contesting the constitutionality of sections of the *Copyright Act 1968* that provide a compulsory licence allowing radio stations to play sound recordings but also place statutory price caps on the amount of royalties that radio broadcaster pay to sound recordings copyright owners.

The plaintiffs argued that contrary to s 51(xxxi) of the Constitution, ss 109, 152(8) and 152(11) of the *Copyright Act 1968* acquired property in their copyright in sound recordings (derived from the 1911 Act) other than on just terms and were invalid.

The High Court rejected the plaintiffs' arguments and accepted the Commonwealth's submission that under the transitional arrangements for commencement of the 1968 Act copyrights previously subsisting in sound recordings had been terminated and replaced by new copyrights to which the compulsory licensing system and caps on royalties were immediately attached. The question of 'just terms' did not arise, as there was no acquisition of property.

Salo

In April 2010 the film *Salo* was classified R18+ by the Classification Board. That classification was upheld by the Classification Review Board in May 2010 following a request for review. FamilyVoice Australia appealed the Review Board's decision in the Federal Court under the *Administrative Decisions Judicial Review (ADJR) Act 1975*. On 31 August 2011 judgment was delivered by Justice Stone in favour of the respondent, that the application by FamilyVoice be dismissed.

Roadshow Films Pty Ltd v iiNet Limited

In November 2008 the Australian Federation Against Copyright Theft (AFACT), a film industry coalition, initiated proceedings in the Federal Court alleging that iiNet authorised copyright infringement by failing to take reasonable steps to prevent known infringing activity of its subscribers. This was the first Australian case in which the authorisation liability provisions in the Copyright Act have been tested against an internet service provider (ISP).

In February 2010, the Court found that while iiNet did have knowledge of infringements, and did not act to stop them, it did not authorise the infringement. AFACT appealed the decision. In February 2011, the Full Federal Court dismissed the appeal. In August 2011, AFACT was granted special leave to appeal the Full Federal Court decision in the High Court. The key grounds of appeal were whether the Full Federal Court had erred in finding that iiNet had not authorised infringement, and whether iiNet had sufficient knowledge of infringement. The High Court unanimously held that the ISP, iiNet, was not 'authorising' copyright infringement.

The Court observed that iiNet had no direct technical power to prevent its customers from using the BitTorrent system to infringe copyright in the appellant's films. Rather, the extent of iiNet's power to prevent its customers from infringing the appellant's copyright was limited to an indirect power to terminate its contractual relationship with its customers.

PJ v the Queen (Supreme Court of Victoria Court of Appeal) 2012

This appeal from an interlocutory decision of the Victorian County Court concerned the construction of the aggravated offence of organising or facilitating the bringing or coming of a group of at least five persons to Australia who do not have a lawful right to enter Australia under section 233C of the *Migration Act 1958*. The Court of Appeal found that proof of the offence requires the prosecution to establish that the accused was aware that Australia was the destination of the journey which he or she is alleged to have facilitated.

Reports by parliamentary committees

Senate Standing Committee on Community Affairs

Inquiry into the Commonwealth Contribution to Former Forced Adoption Policies and Practices

The department assisted the Senate Inquiry into the Commonwealth Contribution to Former Forced Adoption Policies and Practices by appearing before the Inquiry on 28 September 2011. Public hearings and submissions to the Inquiry highlighted personal accounts from adoptees and their birth parents of their experiences of inappropriate practices. The department responded to the Inquiry's questions about the lawfulness of forced adoptions and the role of the Commonwealth in developing uniform adoption laws in the 1960s.

The Inquiry's Report was tabled in the Senate on 29 February 2012. The Report contains twenty recommendations. A key recommendation is for the Australian Government to offer a formal apology on behalf of the nation to the people affected. Other recommendations include that the:

- Commonwealth should set up a national framework for how to respond to the consequences of forced adoption
- state and territory governments and institutions should provide funding for support services
- work should be undertaken to improve records of the time, and access to those records.

The Attorney-General announced on 23 June 2012 that the Australian Government will issue a formal apology to those affected by forced adoption practices. The Attorney-General also announced the establishment of a Reference Group to assist in developing the apology. The Reference Group will comprise parliamentarians and stakeholder representatives, including birth parents and adoptees, and will be chaired by former Family Court of Australia judge, Professor Nahum Mushin. The group will provide advice on the wording and delivery of the apology.

The department is working closely with stakeholders to assess how all the recommendations can be implemented and is coordinating the Government's response to the Inquiry's Report.

House of Representatives Standing Committee on Social Policy and Legal Affairs

Inquiry into the Crimes Legislation Amendment (Powers and Offences) Bill 2011

The Crimes Legislation Amendment (Powers and Offences) Bill 2011 was referred to the House of Representatives Standing Committee on Social Policy and Legal Affairs on 24 November 2011. The Committee tabled its report on 29 February 2012. The Government accepted nine of the ten recommendations made by the Committee, including making Government amendments to the Bill to implement additional safeguards around Australian Crime Commission information disclosure powers. The Bill was passed on 20 March 2012. Further work is being undertaken with respect to the Committee's recommendations that consideration be given to establishing a federal parole board, and that an audit of security and law enforcement agencies' investigative and coercive powers be undertaken.

Inquiry into the Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011

On 7 July 2011, the Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011 was referred to the Standing Committee on Social Policy and Legal Affairs for inquiry and report. The Committee's report was tabled in Parliament on 12 September 2011. The Committee made four recommendations, including that the Bill be passed by the House of Representatives. The Government response to the Report was provided during debate on the Bill in the House of Representatives Main Committee on 19 September 2011. The Government accepted the majority of the Committee's recommendations including that any substantive breach of an undertaking from a foreign country be reported to the Parliament and that the department will commence a review into the operation of the amendments contained in the Bill within three years of its enactment (Recommendations 3 and 4). The Government did not accept Recommendation 2 that consideration be given to removing the presumption against bail in the *Extradition Act 1988*. The Government response noted that the current position on bail in the Extradition Act strikes the correct balance in recognising that in extradition cases there is an increased risk of persons absconding before they can be surrendered to the requesting foreign country, but also allows for bail to be granted in special circumstances.

The Bill was passed by Parliament on 29 February 2012 and received Royal Assent on 20 March 2012.

Inquiry into the regulation of billboard and outdoor advertising

The report of the House of Representatives Standing Committee on Social Policy and Legal Affairs, *Reclaiming Public Space: Inquiry into the regulation of billboard and outdoor advertising*, was tabled on 4 July 2011.

The Committee's recommendations were referred to the ALRC to take into account during its review of the National Classification Scheme. The ALRC's report of that review was tabled on 1 March 2012. The Government is considering its response to the ALRC's Report.

Statement on the Legislative Instruments Amendment (Sunsetting) Bill 2011

On 18 August 2011 the House of Representatives Standing Committee on Social Policy and Legal Affairs made a statement on the Legislative Instruments Amendment (Sunsetting) Bill 2011, in discharge of the Committee's requirement to provide a report on the Bill.

The Committee did not receive any submissions and determined not to hold public hearings. The Committee recommended that the House of Representatives pass the Bill without amendment.

Statement on the Access to Justice (Federal Jurisdiction) Amendment Bill 2011

On 13 February 2012, the House of Representatives Standing Committee on Social Policy and Legal Affairs made a statement on the Access to Justice (Federal Jurisdiction) Amendment Bill 2011, in discharge of the Committee's requirement to provide a report on the Bill.

The Committee noted that the Senate Legal and Constitutional Affairs Legislation Committee was conducting a public inquiry into the Bill and that duplication was likely from a further inquiry. The Committee agreed not to further inquire into the Bill.

Inquiry into the Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill 2012

On 14 March 2012 the Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill 2012 and the Courts Legislation Amendment (Judicial Complaints) Bill 2012 were referred to the House Committee on Social Policy and Legal Affairs for inquiry and report.

The Committee reported on 25 June 2012 and recommended that the Bills pass the House without amendment. Debate in the House of Representatives on the Bills commenced on 28 June 2012. No amendments had been made to the Bills at 30 June 2012.

Senate Legal and Constitutional Affairs Committee

Inquiry into the Access to Justice (Federal Jurisdiction) Amendment Bill 2011

On 29 March 2012, the Senate Legal and Constitutional Affairs Committee released the report of its inquiry into provisions of the Access to Justice (Federal Jurisdiction) Amendment Bill 2011. The inquiry considered only Schedules 2, 3 and 4 of the Bill as the other Schedules were supported by the organisations that commented on those aspects of the Bill.

The Schedules considered by the Committee include provisions relating to suppression and non-publication orders (Schedule 2), vexatious proceedings orders (Schedule 3) and aligning the jurisdictional limit for matters heard by the Family Law Magistrates in Western Australia with that of Federal Magistrates Court (Schedule 4).

The Committee recommended the Senate pass the Bill without amendment.

Inquiry into the National Classification Scheme

The report of the Senate Legal and Constitutional Affairs Committee, *Review of the National Classification Scheme: Achieving the Right Balance*, was tabled on 23 June 2011.

The Committee's recommendations were referred to the Australian Law Reform Commission (ALRC) to take into account during its review of the National Classification Scheme. The ALRC's report of that review was tabled on 1 March 2012. The Government is considering its response to the ALRC's Report.

Inquiry into the Classification (Publications, Films and Computer Games) Amendment (R 18+ Computer Games) Bill 2012

The Senate Legal and Constitutional Affairs Committee tabled its report on the Classification (Publications, Films and Computer Games) Amendment (R 18+ Computer Games) Bill 2012 on 22 March 2012. The Committee recommended that the Bill be passed.

The Bill was passed by Parliament on 18 June 2012 and received Royal Assent on 6 July 2012. The Bill commences on 1 January 2013.

Inquiry into the Classification (Publications, Films and Computer Games) Amendment (Online Games) Bill 2011

The Classification (Publications, Films and Computer Games) Amendment (Online Games) Bill 2011 was passed by the House of Representatives on 2 November 2011 and was referred to the Senate Legal and Constitutional Affairs Committee. The Committee tabled its report on the Bill on 9 February 2012. The Committee recommended that the Senate pass the Bill. The Bill has not yet been debated by the Senate.

Inquiry into the Crimes Legislation Amendment Bill (No.2) 2010

The Crimes Legislation Amendment Bill (No. 2) 2011 was referred to the Senate Standing Committee on Legal and Constitutional Affairs on 23 June 2011. The Committee released its report on the Bill on 23 August 2011. The Government agreed to all of the Committee's recommendations either in full or in principle.

The Bill was passed by Parliament on 22 November 2011 and received Royal Assent on 5 December 2011.

Inquiry into the Human Rights (Parliamentary Scrutiny) Bill 2010 and Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Bill 2010

The Bills were passed unamended on 25 November 2011 and became law on 4 January 2012. The Senate Legal and Constitutional Affairs Committee had recommended that the Bills should be passed, subject to some proposed amendments and other certain non-legislative measures. The Government will be further considering the Senate Committee's recommendations as part of the review of Australia's Human Rights Framework in 2013-14. By this time, there will be a body of work by the Parliamentary Joint Committee on Human Rights to assess as well as experience in the public sector and the Parliament with statements of compatibility.

Social Security Amendment (Supporting Victims of Terrorism Overseas) Act 2012

On 22 March the Senate referred the Social Security Amendment (Supporting Victims of Terrorism Overseas) Bill 2011 (the Bill) to the Senate Legal and Constitutional Affairs Committee. Submissions were sought and a public hearing held on 19 April 2012.

On 10 May 2012, the Committee tabled its Report which included seven Recommendations. The Government adopted all of the recommendations except one. The Bill was passed and received Royal Assent on 22 July 2012.

Inquiry into the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill

On 30 May 2012, the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill was introduced into the House of Representatives. On 19 June 2012, the Senate referred the Bill to the Senate Standing Committee on Legal and Constitutional Affairs for inquiry and report. The Committee is due to release its report on the Bill on 13 September 2012.

Inquiry into the detention of Indonesian minors in Australia

On 10 May 2012 the Senate referred the matter of detention of Indonesian minors in Australia to the Senate Legal and Constitutional Affairs Committee for inquiry. The department and AFP provided a joint submission to the inquiry.

Senate Legal and Constitutional Affairs Legislation Committee

Inquiry into the Australian Human Rights Commission Amendment (National Children's Commissioner) Bill 2012

The Australian Human Rights Commission Amendment (National Children's Commissioner) Bill 2012 was referred to the Senate Legal and Constitutional Affairs Legislation Committee on 23 May 2012, with the report handed down on 18 June 2012. The report recommended that the Bill be passed.

Coalition senators supported the Bill with the caution that the Commissioner must complement and support the work of state and territory children's commissioners.

The Australian Greens supported the Bill but made the following recommendations, which were not adopted:

8. The Bill be amended to explicitly to include the Convention Against Torture and Cruel, Inhumane or Degrading Treatment or Punishment and the Optional Protocol to this Convention; the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.
9. The reporting function should include an additional requirement on the Commissioner to report on Australia's level of compliance with its human rights obligations under the Convention on the Rights of the Child.
10. The Explanatory Memorandum should be amended to explicitly include asylum seeker and refugee children as examples of vulnerable and at risk groups of children.

The Bill was passed by Parliament on 25 June 2012 and commenced on 1 July 2012.

Inquiry into the Deterring People Smugglers Bill 2011

The Deterring People Smuggling Bill 2011 was introduced into Parliament on 1 November 2011. It was referred to the Senate Standing Committee on Legal and Constitutional Affairs on 3 November 2011 for inquiry and report. The Bill sought to amend the *Migration Act 1958* to clarify that a non-citizen has, at a particular time, no lawful right to come to Australia if at that time the person does not meet requirements for lawfully coming to Australia under domestic law, and apply this clarification retrospectively to 16 December 1999. The Department provided a submission to the inquiry and appeared before the Committee in a public hearing on 11 November 2011. The Committee released its report on the Bill on 21 November 2011. The Government agreed to all of the Committee's recommendations. The Bill was passed by Parliament on 25 November 2011 and received Royal Assent on 29 November 2011.

Crimes Amendment (Fairness for Minors) Bill 2012

On 23 November 2011, the Greens introduced the Crimes Amendment (Fairness for Minors) Bill 2011. The Bill proposes to remove wrist X-rays as an age determination procedure, impose strict timeframes for the AFP to conduct age determination processes and lay charges, and create a presumption of age for persons suspected of people smuggling who claim to be minors. The Bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee on 25 November 2011. The Department, AFP and CDPP provided a joint submission to the inquiry and appeared before the Committee in a public hearing on 16 March 2012.

The Committee released its report on 4 April 2012. It recommended that the Government review AFP procedures for laying charges, introduce legislation to clarify that the prosecution bears the burden of proof in age disputes, and review options for legal representatives to gather age evidence. The Committee also recommended that the Senate should not pass the Bill.

Migration Amendment (Removal of Mandatory Minimum Penalties) Bill 2012

On 8 February 2012, the Greens introduced the Migration Amendment (Removal of Mandatory Minimum Penalties) Bill 2012 into the Senate. The Bill would remove mandatory minimum penalties for aggravated people smuggling offences under the Migration Act. The Bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee on 9 February 2012. The Department provided a submission to the inquiry and appeared before the Committee in a public hearing on 16 March 2012.

The Committee released its report on 4 April 2012. It recommended that the Australian Government review the operation of the mandatory minimum penalties applied to aggravated people smuggling offences, and facilitate and support further deterrence and awareness raising activities in relation to people smuggling offences. The Committee also recommended that the Senate should not pass the Bill.

Inquiry into the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011

On 25 March 2011 the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 was referred to the Senate Legal and Constitutional Affairs Committee (Senate LACA Committee) for inquiry and report.

The Senate LACA Committee reported on 22 August 2011 making eight recommendations, including that the Bill be passed by the Parliament. The Government responded to the recommendations by moving amendments to the Bill during debate in the Senate, and agreeing to conduct an education campaign to promote the changes.

Following passage by the House of Representatives on 30 May 2011, the legislation was introduced into the Senate on 14 June 2011. The Senate passed the legislation on 22 November 2011 with amendments. The amendments from the Senate were then considered and passed by the House of Representatives on 24 November 2011.

Senate Legal and Constitutional Affairs References Committee

Inquiry into the incidence of international child abduction to and from Australia

The issue of international child abduction was referred to the Senate Legal and Constitutional Affairs References Committee on 11 May 2011 and the Committee tabled its report on 31 October 2011.

The Government response was tabled on 30 March 2012 and accepted all recommendations – in full, in part or in principle. The Senate report was a timely reminder that, while Australia provides one of the highest levels of support to families affected by international parental child abduction, there always remains room for continued improvement.

As part of its response, the Government is working with organisations such as the Law Council of Australia and International Social Service (ISS) Australia to improve services and information available in the community. The Attorney-General announced on 26 March 2012 that ISS would be funded to give Australian parents dealing with the abduction of their child from Australia free legal assistance. The new legal assistance service complements the counselling and mediation service already provided by ISS and funded by the department. The Government's new funding agreement with ISS provides a national service to help parents prepare and lodge applications from Australia for the return of, or access to, children under the Convention.

The Government has also provided a grant of \$50,000 to the Law Council to prepare a resource for legal practitioners about international parental child abduction.

Parliamentary Joint Committee on Law Enforcement

Examination of the Annual Report of the Australian Crime Commission 2009–10

On 22 August 2011, the Parliamentary Joint Committee on Law Enforcement (PJCLE) released its report on its examination of the annual report of the Australian Crime Commission 2009–2010. The Committee made two recommendations about the Australian Crime Commission's practice of varying controlled operations under Part 1AB of the *Crimes Act 1914*. The Government tabled its response to the report on 10 May 2012, accepting in part the Committee's recommendations.

Inquiry into Commonwealth unexplained wealth legislation and arrangements

In February 2010, the Government introduced provisions for the making of unexplained wealth orders, as part of a suite of new laws to combat organised crime. These laws are designed to

target senior organised crime figures who often derive large profits from illegal activity but distance themselves from the commission of actual offences.

On 13 July 2011, the PJCLE initiated an inquiry into Commonwealth unexplained wealth legislation and arrangement. The department and portfolio agencies actively assisted the Committee during the course of this inquiry, making both written and oral submissions to the Committee.

On 19 March 2012, the PJCLE released the Final Report of its inquiry into Commonwealth unexplained wealth legislation and arrangements, which makes eighteen recommendations aimed at enhancing the pursuit of unexplained wealth. The department will work closely with other relevant agencies in preparing a response to the recommendations.

Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime

On 16 June 2011, the PJCLE completed and tabled the report of its Inquiry into the Adequacy of Aviation and Maritime Security Measures to Combat Serious and Organised Crime. The terms of reference of the inquiry required the committee to examine the effectiveness of current administrative and law enforcement arrangements to protect Australia's borders from serious and organised criminal activity.

The PJCLE's report contained twenty-two recommendations. On 3 November 2011, the Government tabled its response to the report.

The Government has either accepted or noted nineteen of the twenty-two recommendations made by the inquiry.

In May 2012, the Minister for Home Affairs and Justice announced a number of major reforms to make it harder for organised criminals to exploit and infiltrate the waterfront and the private sector supply chain. These reforms will implement a number of the PJCLE's recommendations.

Inquiry into the gathering and use of criminal intelligence

On 30 May 2012, the PJCLE initiated an Inquiry into the gathering and use of criminal intelligence. The department is developing a submission for the Committee.

Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity

Inquiry into the operation of the Law Enforcement Integrity Commissioner Act 2006.

On 14 May 2009, the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity (PJC-ACLEI) initiated an inquiry into the operation of the *Law Enforcement Integrity Commissioner Act 2006*. Its final report, released on 7 July 2011, made ten recommendations relating to extension to ACLEI's jurisdiction, additional proposed amendments to the LEIC Act 2006; and the Commonwealth integrity framework, including gaps, areas of overlap, and possible measures for improvement. The Government tabled its response on 9 February 2012. The report's recommendations were either accepted in full, in part, in principle, or were noted.

On 21 November 2011, the PJC-ACLEI released its report on its inquiry into integrity testing. The report made eight recommendations, including the introduction of targeted integrity testing for the Australian Federal Police, Australian Crime Commission and Australian Customs and Border Protection Service, as well as recommendations regarding the broad scope of integrity testing and associated governance and accountability measures. The Government agreed, or agreed in principle, to all of the recommendations in its response to the report, which was tabled on 30 March 2012. The department is currently working on legislation to implement the Government's response.

On 6 December 2011, the PJC-ACLEI initiated an inquiry into the integrity of overseas Commonwealth law enforcement operations. The department gave evidence to the Committee at its public hearing on 1 March 2012.

Senate Environment and Communications References Committee

Inquiry into the capacity of communication networks and emergency warning systems to deal with emergencies and natural disasters

On 3 March 2011, the Senate referred to the Environment and Communications References Committee to inquire and report on the capacity of communication networks and emergency warning systems to deal with emergencies and natural disasters. The Committee handed down its findings on 23 November 2011.

Recommendations focused on spectrum allocation in the context of interoperability between emergency services; increased collaboration between emergency services and the media; improved access to emergency call services for people with a disability; increased public education on emergency preparedness; and priority access to fuel for public broadcasters during emergencies.

The Australian Government's response to the Committee's report will be tabled in due course.

Senate Economics References Committee

Inquiry into the asset insurance arrangements of Australian state governments

On 3 March 2011, following the floods that occurred in Queensland over the 2010–11 summer, the Senate referred for inquiry issues relating to the insurance of state government assets to the Senate Standing Committee on Economics for report by 22 September 2011. The referral was based on a Notice of Motion from independent Senator Nick Xenophon.

On 22 September 2011, the Senate Standing Committee on Economics released its report, *The asset insurance arrangements of Australian state governments*. The report contained four recommendations focused on the need to improve transparency in the states and territories' reporting of their insurance and reinsurance arrangements; the need for the Commonwealth Grants Commission to be more thorough in its collection of the states' and territories' natural disaster expenses, including insurance receipts; and the meaning of the term 'cost-effective' in assessing the adequacy of the states' and territories' insurance arrangements.

The Australian Government's response to the Committee's report will be tabled in due course.

House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs

Report tabled, Doing Time – Time for Doing: Indigenous Youth in the Criminal Justice System

On 20 June 2011, the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs tabled its report entitled *Doing Time – Time for Doing: Indigenous Youth in the Criminal Justice System*. The report made forty recommendations addressing connections between Indigenous contact with the criminal justice system and the justice, health, education and employment sectors. The Government Response was tabled in Parliament on 24 November 2011 with the Government accepting in whole, in part or in principle all forty of the Report's recommendations. The Australian Government is working on implementing the recommendations, including raising the issues with state and territory governments through appropriate Ministerial Councils.

Australian Greens Senator Rachel Siewert's Native Title Amendment Bill (No. 1) 2010 was considered by the Legal and Constitutional Affairs Legislation Committee in 2011. Representatives from the department appeared before the committee on 16 September 2011. The committee released its final report on 9 November 2011. It recommended that the Senate should not pass the bill.

Joint Standing Committee on Migration

Inquiry into multiculturalism in Australia

On February 2011, the Joint Standing Committee on Migration accepted terms of reference from the Minister for Immigration and Citizenship, the Hon Chris Bowen MP, to inquire into the economic, social and cultural impacts of migration and make recommendations to maximise the positive benefits of migration. The department was invited to appear before the inquiry and make a submission on the Countering Violent Extremism program as it relates to the role of multiculturalism in the Australian Government's social inclusion agenda and supporting the full participation and integration into the broader Australian society of new migrants. On 2 March 2012 the submission was tabled. On 14 March 2012, representatives from the Countering Violent Extremism Unit in the department appeared before the Committee. A supplementary submission was tabled in response to questions asked at the hearing. The final report will be made available once it has been tabled in parliament.

Joint Select Committee on Cyber-Safety

Inquiry into Cybercrime Legislation Amendment Bill 2011

The Cybercrime Legislation Amendment Bill 2011 was referred to the Joint Select Committee on Cyber-Safety on 23 June 2011.

In addition to public hearings, the Committee received twenty-two submissions presenting a range of views. While some submissions provided unreserved support for the Bill, others rejected accession to the Convention. The majority of submissions supported accession but expressed concerns about specific provisions of the Bill. Key issues included individual rights and privacy protections and the capacity of the states and territories to retain and implement relevant enforcement powers within their jurisdictions.

The Committee released its report on 18 August 2011, making thirteen recommendations. The Government has announced its intention to respond to the recommendations in the Senate, including by moving amendments to the Bill.

Joint Standing Committee on Treaties

On 21 June 2012, the Joint Standing Committee on Treaties tabled its report on the review into treaties which were tabled on 7 and 28 February 2012. This report dealt with the Convention providing a Uniform Law on the Form of an International Will done at Washington DC on 26 October 1973. The Committee recommended that binding treaty action be taken. It concluded that the greater legal certainty of an international will provides practical benefits for testators and beneficiaries.

Nuclear Terrorism Legislation Amendment Act 2012

The National Interest Analysis for the International Convention for the Suppression of Acts of Nuclear Terrorism (the Convention) was tabled in August 2011 before the Joint Standing Committee on Treaties (JSCOT). JSCOT held a public hearing and tabled its report on 22 November 2011, recommending Australia take binding treaty action.

The *Nuclear Terrorism Legislation Amendment Act 2012* (the Act) gives effect to Australia's outstanding obligations under the Convention. The Act, which amends the *Nuclear Non-Proliferation (Safeguards) Act 1987* and the *Extradition Act 1988* received Royal Assent in March 2012.

Ratifying the Convention sends a strong message to the international community demonstrating Australia's continued commitment to addressing the threat of terrorism. In addition, it strengthens Australia's case in encouraging regional countries to ratify the sixteen international counter-terrorism instruments.

Inquiry into the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment

On 21 June 2012, the Joint Standing Committee on Treaties tabled its report on the review into treaties tabled on 7 and 28 February 2012. The report includes the Committee's assessment of the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment (the 'Optional Protocol'). The Optional Protocol establishes a two-pronged system for inspecting Australian places of detention: by designated inspectorates, or 'national preventative mechanisms' (NPMs); and by the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT). The Committee supports the Optional Protocol and recommended that Australia take binding treaty action. The Committee noted that international practice has shown the integrated and recognised systems of monitoring established under the Optional Protocol improve outcomes for detainees and achieve practical benefits for State parties. The Committee also noted that in addition to the human rights benefits, monitoring under the Optional Protocol has the potential to minimise the financial cost of instances of mistreatment, including by avoiding litigation and compensation expenses.

The Committee also recommended that the Australian Government work with the states and territories to implement a national preventive mechanism fully compliant with the Optional

Protocol as quickly as possible on ratification of the Optional Protocol, recognising that the Optional Protocol allows States to delay the implementation of the NPM for a number of years.

Australian Human Rights Commission

Inquiry into the treatment of individuals suspected of people smuggling offences who say that they are children

On 21 November 2011, the Australian Human Rights Commission (AHRC) announced an inquiry into the treatment of people smuggling crew who claim to be minors. The Department, the AFP and CDPP provided a joint submission to the inquiry. Officers from the Department and other Commonwealth agencies appeared before the Commission at hearings in Canberra on 19–20 April 2012.

Other reports

Independent review of the Family Law Pathways Networks

The department commissioned Encompass Family and Community Pty Ltd to undertake an independent review of the Family Law Pathways Networks. The networks foster collaboration between agencies, at a local level, including family law courts, lawyers, family relationship services, legal assistance services, and child support. The review confirmed that the Family Law Pathways Networks enable an integrated family law system to operate effectively at the local level, actively contribute to reducing family law matters ending up in court and provide a level of support and referral for families at whatever stage they are at within the family law system.

Report of the United Nations Special Rapporteur on Trafficking in Persons, especially women and children

In November 2011, the department coordinated a visit by the United Nations Special Rapporteur on Trafficking in Persons, especially women and children, Dr Joy Ngozi Ezeilo. In her report, tabled at the 20th session of the UN Human Rights Council in June 2012, the Special Rapporteur recognised Australia as a regional leader in combating trafficking and commended our strong working relationship with civil society. The Special Rapporteur made eighty-six recommendations to the Australian Government, the majority of which have been accepted or partially accepted by the Government. The department is currently working with members of the Anti-People Trafficking Interdepartmental Committee to implement a number of the recommendations.

Strategic review of small and medium agencies in the Attorney-General's portfolio (Skehill Report)

In August 2011 Mr Stephen Skehill, a former Secretary of the Australian Attorney-General's Department, was engaged by the Department of Finance and Deregulation to lead a strategic review of small and medium agencies in the Attorney-General's portfolio. The review assessed these agencies with reference to the Expenditure Review Principles of appropriateness, effectiveness, efficiency, integration,

performance assessment and strategic alignment, and developed options to improve value for money in the discharge of their functions and decision-making. The review also considered the potential for shared services and administration arrangements.

The Skehill Report was released on 8 June 2012. The report contains forty-six recommendations most of which are being implemented by the Attorney-General's Department or require no further action. Key areas in which the Government is implementing reforms recommended by the report include:

- improving court administration and collaboration, and identifying efficiencies, through a new consultative committee comprising heads of jurisdiction, heads of administration and other relevant officers, including an observer from the Attorney-General's Department
- the courts and the Government working more closely on strategic planning for utilisation of court buildings
- formalising the shared administration arrangement between the Family Court and Federal Magistrates Court and not proceeding with the family law restructure
- introduction and passage of legislation to enable the transfer of the Office of Legislative Drafting and Publishing to the Office of Parliamentary Counsel
- improvements to the effectiveness and efficiency of the native title system through the transfer of native title claims mediation from the National Native Title Tribunal to the Federal Court of Australia and through efficiencies in the corporate services areas resulting from locating the administration of the NNTT within the Federal Court
- establishment of a collaborative process between federal merit tribunals to promote cooperation and identify opportunities for greater efficiency and effectiveness through shared or cooperative arrangements, and
- engagement of a consultant for initial work on a 'corporate services business offering' to create efficiencies through the provision of shared services for portfolio agencies.

Some recommendations are not supported by the Australian Government. These include recommendations concerning the creation of an Administrative Review Tribunal combining Commonwealth merit review tribunals and a further review on the future financial position of federal courts.

Department of Finance and Deregulation Gateway Review of National Crisis Coordination Capability Program: Australian Government Crisis Coordination Centre Project

The National Crisis Coordination Capability Program Australian Government Crisis Coordination Centre project is subject to the Department of Finance and Deregulation's Gateway Review Process. The reviews for Gates 1, 2 and 3 were conducted in 2009. The review for Gate 4 was conducted from 22 to 26 August 2011 to assess the project's readiness for service.

The Gate 4 review conducted found the overall rating for the project to be 'green', meaning that the project is on target for the effective and timely delivery of outcomes and while there appear to be some findings requiring management attention, these appear readily resolvable. Progress against recommendations made by the independent review panel was reported to and monitored by the Attorney-General's Department's National Crisis Coordination Capability Program Board. The final review, Gate 5, will be conducted in July 2012.

Reports dealing with the operations of the department by the Australian Law Reform Commission

Review of the National Classification Scheme

The ALRC's Report *Classification – Content Regulation and Convergent Media* (the Report) was tabled in Parliament on 1 March 2012. The Report assessed various aspects of the National Classification Scheme and made fifty-seven recommendations. The department is currently considering the Report's recommendations and will lead the development of the Government response. This will involve consulting the states and territories and also the Department of Broadband Communications and the Digital Economy in relation to relevant recommendations arising from the Convergence review.

“ goodwill and cooperation –
public consultation strengthens
our approach to policy
development ”

OUR PEOPLE

Ian D'Souza, Mark Whitechurch and Siw Wittkopf,
National Security Law and Policy Division.



Chemical Security Team making Australia safer

The Chemicals of Security Concern Program has pioneered a new approach to policy development through its chemical security risk assessments, risk mitigation measures and consultation with industry and the general community.

The chemical team's public consultations have taken them to some of the most remote parts of Australia on over 300 site visits to importers, manufacturers, suppliers, transporters and end users to conduct risk assessments of chemicals commonly used in industry.

'Given that the site visits are voluntary, we appreciate that industry openly welcomes us to view their operations. The success of the Program depends on the goodwill and cooperation of Australian businesses, large and small, to assist in the risk assessments and to provide input on potential control measures', said Ian D'Souza.

'Our consultations were expanded this year when we sought industry and community comment on draft risk mitigation measures through a Regulation Impact Statement (RIS). The draft measures proposed in the RIS are the basis for mitigating the potential misuse of the eleven precursor chemicals to home-made explosives.

'The risk assessments of ninety-six chemicals of security concern are being undertaken progressively and are scheduled for completion by the end of the 2014-15 financial year. So far assessments for twenty-five chemicals have been completed while, at the same time, the department is working with industry sectors identified as high risk to raise awareness of the dangers posed by the chemicals', said Ian.

The methodology and the security outcomes of the chemical assessments have generated considerable external interest, as has the chemical team's development of awareness and capability materials for first responders in Australia.

Following the launch in May this year of an awareness guide for Australia's police, fire and ambulance services about home-made chemical explosives, the department received dozens of enquiries and requests for the guide from many European countries as well as Canada, United States of America, New Zealand and Japan.



Financial management

Analysis of financial performance

The departmental operating result for 2011–12 was a deficit of \$78.181 million compared to a deficit of \$17.772 million for 2010–11.

The deficit is primarily due to the expenditure in 2011–12 of appropriation received in prior financial years for certain expense measures, the impact of personnel reductions to align staff numbers to future appropriation, and other non-cash expenses including the transfer of assets, unfunded depreciation expense, and accounting for employee provisions. Details of these transactions appear at Note 33 of these financial statements.

Administered expenses for 2011–12 totalled \$510.241 million compared to \$1.495 billion in 2010–11. The 2010–11 expenses included \$978.815 million in personal benefits payments to individuals following the floods and severe weather events that occurred early in 2011.

Figure 13.1: Departmental revenues and expenses, 2010–11 and 2011–12

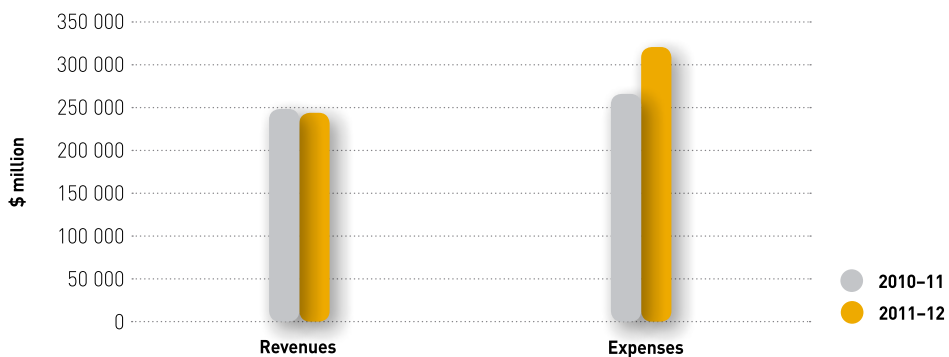
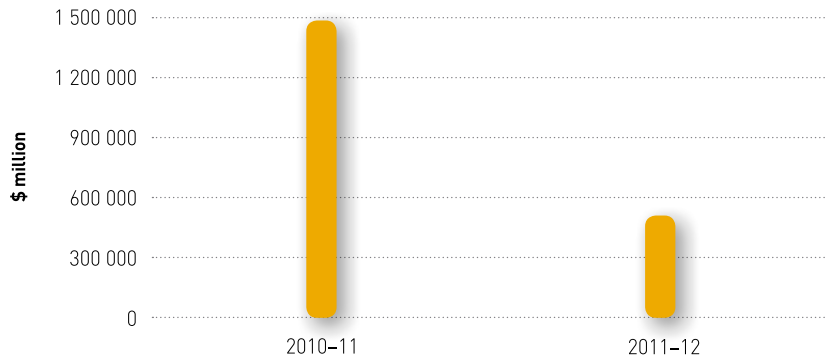


Figure 13.2: Administered expenses, 2010–11 and 2011–12



Contracts and Australian National Audit Office access clauses

During 2011–12, the department had no contracts to report over the value of \$100,000 that did not provide for the Auditor-General to have access to the contractor’s premises.

Exempt contracts

During 2011–12 the department had no contracts to report over the value of \$10,000 exempted from being published in AusTender by the Secretary of the department on the basis that to do so would disclose exempt matters under the *Freedom of Information Act 1982*.

Consultancy services

The department engages consultants where it lacks specialist expertise or when independent research, review or assessment is required. Consultants are typically engaged to investigate or diagnose a defined issue or problem, carry out defined reviews or evaluations, or provide independent advice, information or creative solutions to assist in the department’s decision making.

Prior to engaging consultants, the department takes into account the skills and resources required for the task, the skills available internally, and the cost-effectiveness of engaging external expertise. The decision to engage a consultant is made in accordance with the FMA Act and related regulations including the Commonwealth Procurement Guidelines (CPGs) and relevant internal policies.

During 2011–12 the department entered into forty-six new consultancy contracts involving total actual expenditure of \$3.306 million. In addition, three ongoing consultancy contracts were active during the year involving total actual expenditure of \$0.553 million.

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website www.tenders.gov.au

Advertising and market research

During 2011-12 the department conducted two advertising campaigns – the National Security Campaign and the Personal Property Securities Campaign. Further information is available at www.ag.gov.au and in the reports on Australian Government advertising that are prepared by the Department of Finance and Deregulation. Those reports are available at www.finance.gov.au/advertising/index.html

The department is required to disclose expenditure made to specific types of organisations under section 311A of the *Commonwealth Electoral Act 1918*. These categories of organisations are advertising agencies, market research organisations, polling organisations, direct mail organisations and media advertising organisations.

Details of payments are provided at Appendix 4.

Legal services expenditure

Paragraph 11.1(a) of the Legal Services Directions 2005, issued by the Attorney-General under the *Judiciary Act 1903*, requires Chief Executives of departments and agencies to ensure that legal services expenditure is appropriately recorded and monitored. Chief Executives must also ensure that their agencies make publicly available records of their legal services expenditure for the previous financial year by 30 October in the following financial year. External legal services expenditure for 2011-12 was \$10.397 million.

A more detailed breakdown of both internal and external legal expenditure is at Appendix 5.

Grants

The department manages its grants programs in accordance with the Government's legislative framework, the Commonwealth Grant Guidelines and the department's grants management guidelines.

In 2011-12, the department published information for twenty-one grants programs:

- Closing the Gap – Northern Territory Law and Order
- Computer Emergency Response Team (CERT) Australia
- Commonwealth Human Rights Education Program
- Countering Violent Extremism to Prevent Terrorism Program
- Community Legal Services Program
- Critical Infrastructure Resilience – Water Services Sector Group
- Disaster Resilience Australia Package
- Family Relationships Services Program

- Financial Assistance Towards Legal Costs and Related Expenses
- Grants to Australian Organisations
- Idaho National Laboratories Advanced Cyber Security Training Program
- Indigenous Justice Program
- Indigenous Legal Aid and Policy Reform Program
- National Counter-Terrorism Committee Program
- National Pro Bono Resource Centre Grant
- Native Title Anthropologist Grants Program
- Payments for Provision of Legal Aid – Legal Aid Commissions
- *Proceeds of Crime Act 2002* – Section 298 Payment
- Provision of Family Violence Prevention Legal Services for Indigenous Australians
- Safer Suburbs Program
- Secure Schools Program.

Information on grants awarded by the Attorney-General's Department since 1 July 2010 is available at www.ag.gov.au.

Purchasing

The department procures property and services consistent with the requirements of the Commonwealth Procurement Guidelines. The guidelines are applied to procurement activities through the Chief Executive Instructions and the department's *Financial Guidance and Procedure Manual*.

A financial management learning and development program includes modules on procurement and contract management as well as on the Chief Executive Instructions, authorisations and delegations.

A central procurement advisory unit within the department provides advice to staff involved in procurement activities. In addition, the unit undertakes quality assurance testing of procurement activities undertaken across the department.

The procurement advice unit periodically reviews all procurement-related documentation and training material to ensure consistency with the Commonwealth Procurement Guidelines and other policies that interact with procurement. The department is currently implementing a procurement module within the department's financial management information system to enhance administrative workflow and compliance. The introduction of this module will require a complete review of internal procurement rules, guidance, forms and templates.

Asset management

The department's fixed asset base is composed of a wide range of asset types, including office fit-outs, purchased and internally-developed software, computer equipment, infrastructure and centrally-held library materials.

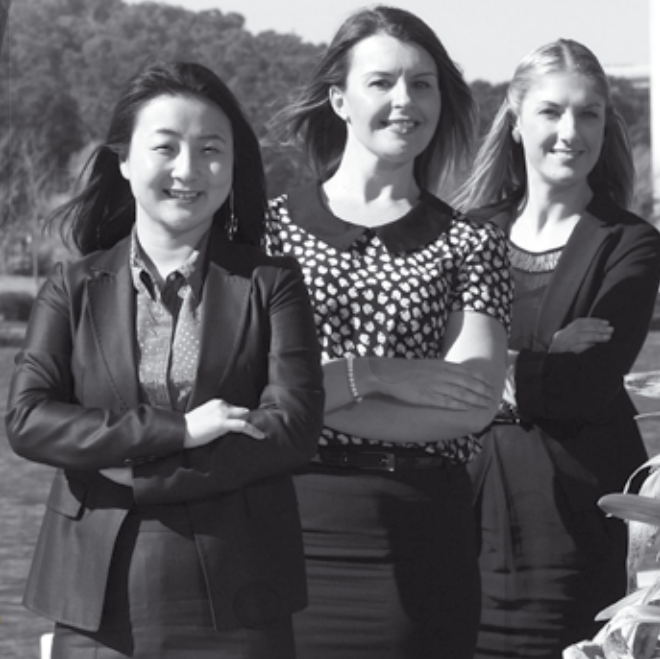
The department undertakes an annual stocktake of assets to maintain the accuracy of asset records.

The department also has asset management guidance and procedures as part of the *Financial Guidance and Procedure Manual*, which has been disseminated to divisions and is available on the department's intranet.

“ positioning the
department as an
employer of choice ”

OUR PEOPLE

Clara Yoo and Karli Farrell, Corporate Division
and Whilemina Prendergast (centre),
Strategy and Delivery Division.



Graduate recruitment campaign case study

While there is intense competition between students for the roughly thirty graduate places on offer with the department each year, the department also faces the challenge of recruiting the best candidates, who may have a number of opportunities available to them.

With a focus on delivering a quality outcome with a reduced budget, Clara Yoo of the People and Corporate Support Branch worked closely with Whilemina Prendergast of the Strategic Communication Branch to develop a new approach to encourage the best graduates to apply.

'There is a wide range of career pathways available to potential graduates in our department', said Clara. 'Our challenge was to attract applicants from a wide range of academic disciplines and to position the department as an employer of choice. We needed a targeted approach as we did not have a substantial budget for advertising.'

Informed by in-house research conducted by previous graduates and the graduate team, the Strategic Communication Branch developed a communication strategy that utilised online channels to spread the word and encourage graduates to apply.

'We developed a branded govspace site which showcased the diversity of work on offer in the department and included a YouTube video where previous graduates spoke about their experiences', said Whilemina.

'We then applied the same branding to a campaign Facebook site and began attracting "likes" from potential graduates by uploading content from an approved content plan. By actively marketing our Facebook page in forums used by university students, we drove audiences to the website where they could find information about how to apply for the program.'

The online strategy was backed up with appearances at graduate career fairs where branded promotional materials were distributed, the YouTube video was on display and Attorney-General's Department employees were available to talk about the exciting careers on offer.

The campaign was extremely successful with the department receiving almost 1,400 applications – the highest number of applications in the history of the program. The successful applicants will join the department in 2013.



Human resource management

Overview

In 2011–12 the People and Corporate Support Branch introduced several new people management strategies, including:

- Introduction of a strategic recruitment model for the filling of vacancies across the department in a targeted and timely manner. Strategic recruitment uses comprehensive assessment centres to assess large numbers of candidates that result in an increased field of quality candidates. The merit pools generated by each strategic recruitment round were used throughout the department and reduced the number of individual positions being advertised each week. Strategic recruitment rounds also attracted a larger field of applicants and were completed in fewer days than individual processes.
- A new departmental Enterprise Agreement 2011 was negotiated and implemented.
- There was significant revision to policies relating to the new work health and safety laws
- The drafting of a Learning and Development Plan (to be launched in July 2012) providing a framework for a learning and development culture that will result in improved performance, individual growth and organisational benefit.
- Design and implementation of a new marketing campaign including the use of social media to promote the recruitment for the 2013 Graduate Program resulted in the highest number of applications ever received for the program in the department.

Staff profile

Figure 14.1: Departmental staff numbers from 2007 to 2012, at 30 June 2012

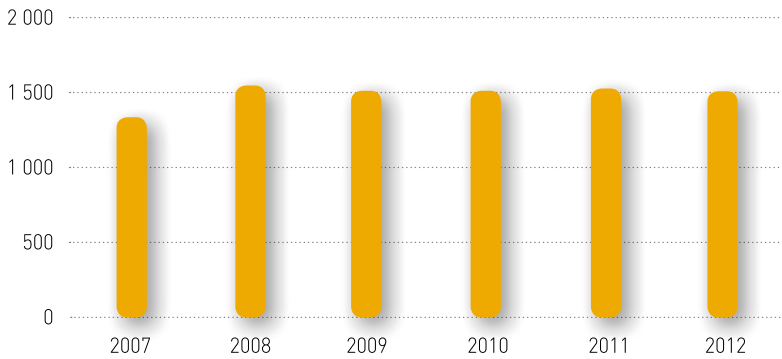


Table 14.1: Staffing trends, 2006–07 to 2011–12

	2006–07	2007–08	2008–09	2009–10	2010–11	2011–12
Total staff	1329	1544	1547	1554	1522	1503
Ongoing	1135	1353	1387	1395	1394	1420
Non-ongoing	160	148	123	118	128	83
Irregular/intermittent/casual	34	43	37	41	31	29
Average age	36	38	38	38	38	38
Average length of service (years)	3.7	3.7	4.1	4.2	4.4	4.9
Proportion female (%)	58.4	64	63.5	62.3	61.4	62.8
Proportion male (%)	41.6	36	36.5	37.7	38.6	37.2
Proportion part-time (%)	6.3	7.7	7.6	8.3	10.5	10.1
SES	80	78	94	78	75	78
EL1 and 2 equivalent	514	608	625	651	700	654
APS 1–6 equivalent	701	858	826	784	773	771
Total excluding casuals	1295	1501	1510	1513	1522	1503

Workforce planning

During the year, the department continued to build its workforce planning capability, and focused on obtaining a broader and more accurate view of trends in its workforce, current and future capability gaps and critical roles, and positioning itself for future workforce needs.

In addition to this, the department undertook other key workforce planning activities including:

- incorporating targeted resourcing discussions with Senior Managers into its annual Business Planning Process

- finalising a new Learning and Development Plan placing a greater focus on employees' target areas for development linked to the capabilities required to meet expectations and responsibilities in their roles.

Recruitment

The department continued to develop its employment programs, including the Graduate Program, Summer Intern Program and Indigenous Traineeship and Cadetships. The department also committed to participate in Disability Employment Programs and will continue to develop its recruitment capability in relation to targeted diversity groups.

This year the department used social media and online advertising as marketing tools for the 2013 Graduate Program, launching a Facebook page and uploading a graduate-specific video to the department's YouTube channel. Advertising was targeted at popular online forums rather than the more traditional media used in previous years. This revised marketing strategy resulted in the highest number of applications received for the program as well as the ability to showcase to a broader audience the range of employment programs available.

Staffing retention and turnover

In 2011-12, the department experienced an employee-initiated turnover rate of 14.4 per cent. This includes resignations from the Australian Public Service, movements to other agencies, retirements and voluntary early cessations of non-ongoing contracts

The department's separation rate for ongoing employees in 2011-12 was 11.4 per cent. This includes all separations for ongoing staff – including terminations, redundancies, resignations and retirements – but does not include movement of ongoing staff to other agencies. Approximately 44 per cent of the department's separations for ongoing staff in 2011-12 resulted from staff moving to other agencies.

Workforce agreements

Enterprise agreements

The Attorney-General's Department Enterprise Agreement 2011 came into operation on 28 September 2011 and nominally expires on 30 June 2014. Terms and conditions of employment for all non-SES employees are covered by the agreement. The agreement contains individual flexibility arrangements and other clauses to enable remuneration and conditions to be tailored for individual employees in particular circumstances. At 30 June 2012, 1,532 employees were covered by this agreement.

Key features of the agreement include:

- a 4 per cent base salary increase and further increases of 3 per cent from 1 July 2012 and 2 per cent from 1 July 2013
- productivity payment of \$1,000 subject to achieving redistribution of departmental resources through the Efficiency Program
- increase to the Health and Wellbeing Allowance from \$150 to \$300 per annum
- availability of higher duties allowance for employees within APS Level 1-2 or APS Level 5-6 broadbanded positions

- removal of the first pay point in the EL 2/PLO salary structure
- a guaranteed 15.4 per cent employer superannuation contribution
- flexible working arrangements for parents.

Section 24(1) determinations

Terms and conditions for all current SES employees are covered by individual determinations made under section 24(1) of the *Public Service Act 1999*. Remuneration for an SES employee, as set out in the section 24(1) determinations, includes base salary, an Executive Vehicle Scheme vehicle or cash-in-lieu, a car park and superannuation.

Non-salary benefits provided to employees

The department, through its industrial agreements with employees, permits employees to flexibly package their remuneration to combine both monetary and non-monetary benefits. The key non-salary benefits for which an employee can choose to sacrifice salary include a motor vehicle acquired through novated lease arrangements and additional employer superannuation contributions. This financial year the ability to salary package interest-only investment loans has been introduced.

Salary rates

Table 14.2: Salary ranges under the department's Enterprise Agreement 2011 and SES Remuneration Policy at 30 June 2012

Classification	Salary range under the EA (\$)	Salary range under the SES RP (\$)
SES Band 3		245,000 – 300,000
SES Band 2	n/a	200,000 – 240,000
SES Band 1		160,000 – 190,000
Executive Level 2	110,202 – 125,518	
Principal Legal Officer	110,202 – 125,518	
Executive Level 1	90,572 – 110,202	
Senior Legal Officer	90,572 – 110,202	
APS Level 5-6	65,730 – 83,382	
APS Level 4	58,928 – 63,983	
Legal Officer	52,875 – 83,382	n/a
APS Level 3	52,875 – 57,065	
Graduate APS	52,484 – 53,793	
AGD Graduate Broadband	52,875 – 83,382	
APS Level 1-2	41,840 – 52,508	
Cadet APS (practical training)	41,020 – 45,333	
Cadet APS (full-time study)	22,379 – 22,379	

Note: EA = Enterprise Agreement; RP = Remuneration Policy; n/a = not applicable.

Performance pay

Performance pay is not available to non-SES employees under the department's Enterprise Agreement 2011 nor to SES employees under the section 24(1) determinations.

No performance pay was paid in 2011-12.

Learning and development

The department remains committed to knowledge and learning and to producing well-supported and productive staff. An internal schedule of training courses continues to be offered, with over fifty courses offered to staff to develop capabilities aligned to the Australian Public Service Commission's Integrated Leadership System (ILS). The majority of courses are presented in the department's contemporary learning facilities. Courses are presented by internal instructors (subject matter experts) and a panel of external providers that provide the latest techniques in training and that have been fully briefed on the department's expected deliverables. The course offerings are continually monitored and the feedback evaluated to ensure training is relevant and meets the department's needs.

During the second half of 2011-12, the department produced a Learning & Development (L&D) Plan which provides a framework for a learning and development culture that will result in improved performance, individual growth and organisational benefit. The L&D Plan identifies the department's unique learning and development environment offered to individuals:

- interesting and challenging national interest work across policy, program and corporate functions, providing potential for a variety of roles and breadth as well as depth of capabilities, knowledge, skills and experiences
- a mix of decentralised learning and development opportunities in professional and technical areas managed by divisions and centralised learning and development opportunities in general and department-specific areas managed by the corporate centre
- opportunities to learn in the workplace from recognised subject matter experts, effective leaders and experienced mentors
- a culture that supports and encourages both formal and on-the-job, relationship-based continual learning and development.

A refreshed Mentoring Program was re-launched to the department to promote the benefits of being part of a mentoring relationship and to help employees get the most from the program. A number of tools were created, including an online database of potential mentors to assist employees in establishing a mentoring relationship.

In 2011-12 the department's Leadership Program continued to strengthen. The SES Leadership Forums provided SES staff with an opportunity to network while undertaking strategic planning using a whole-of-department approach. The department also continued to use Australian Public Service Commission (APSC) leadership programs in developing its SES. The Executive Level 2 Development Program has to date provided over half of the department's Executive Level 2 and Principal Legal Officers with an opportunity to have an independent assessment of their strengths and development needs. This program provides participants with feedback on their current capabilities and helps to identify future learning and development needs.

Through a study assistance program, the department provides financial assistance and leave to staff for ongoing external professional development that may lead to a formal qualification. The department also participates in the Sir Roland Wilson Foundation Scholarship. This scholarship is governed by the APSC and supports high-performing executive level staff to undertake PhD studies at the Australian National University. Employee Suzanne Akila is currently a participant on this program.

Staff recognition

The reward and recognition arrangements acknowledge and celebrate outstanding contributions by employees to the Attorney-General's strategic goals, and commitment to departmental values and behaviours. The department has a formal non-salary reward and recognition program, with award ceremonies to staff including Secretary's Award, Deputy Secretaries' Awards (three), Academic Achievement Award, and the Australia Day Awards.

The annual Secretary's Award recognises individuals and teams that have demonstrated excellence in achieving outcomes beyond general expectations. Deputy Secretaries and managers present other awards for excellence. Recipients may have:

- demonstrated a high level of dedication and loyalty over and above that which is required to achieve the business goals of the department
- made an outstanding contribution that had a positive and important impact on corporate objectives or reputation
- worked collaboratively across divisional boundaries
- demonstrated innovation and creativity in developing intellectual property.

The Academic Achievement Award recognises an departmental student who excels in both academic achievement and work performance. The Australia Day Achievement Award acknowledges Australians who have demonstrated outstanding personal achievement throughout the year. Divisional recognition awards are also encouraged.

A full list of 2011–12 award recipients is in Appendix 7.

Work-life balance

The Attorney-General's Department Enterprise Agreement 2011 provides flexible working arrangements to help employees balance their work and other responsibilities. The department's employment conditions policies include the following flexible working arrangements for staff:

- part-time work (including guaranteed access to part-time work for three years following the birth or adoption of a child)
- job sharing
- home-based work
- flextime and other flexible working hours arrangements

- flexible leave arrangements, including fourteen weeks paid maternity, adoption and foster-care leave, two weeks paid parental leave (for non-primary carers of a newborn or adopted child)
- the option of purchasing additional leave or taking leave at half pay.

Additional policies and initiatives that support flexible working arrangements include:

- a health and well-being program, including an allowance for all employees
- availability of a carer's room
- study assistance.

Staff survey

The department seeks to improve employee engagement with the culture and leadership of the organisation and a number of initiatives were implemented:

- The Secretary commenced holding regular sessions which are an opportunity for the Secretary to engage with staff.
- Employees can post questions, feedback or suggestions to the Secretary via the department's intranet.
- The EL2 Development Program was implemented. It focuses on enabling managers to identify the development needs of their staff.
- The Strategic and Divisional Business Plans were developed with participation from staff.

Workplace diversity

The department continues to develop and implement strategies to strengthen workplace diversity. This year the department appointed a Reconciliation Champion to raise awareness of the important issue of reconciliation. The department also appointed a Disability Champion to encourage and support employees within the department to develop and implement inclusive workplace practices for people with disability.

This year the department continued to focus on Aboriginal and Torres Strait Islander employees and the employment of people with disability. The department supported the work undertaken by the Women's Network and participated in events such as Harmony Day, NAIDOC Week, Reconciliation Week and National Families Week.

National Disability Strategy

The department is committed to providing opportunities for people with disability. The department has commenced a Disability Action Plan with a view to develop an employment strategy for people with disability or staff who are carers of people with disability.

Work health and safety

The department is committed to providing and maintaining a safe and healthy work environment for all workers (employees, contractors and others) and visitors, and to meeting its obligations under new work health and safety (WHS) laws and the *Safety, Rehabilitation and Compensation Act 1988*.

On 1 January 2012, the *Work Health and Safety (Transitional and Consequential Provisions) Act 2011* repealed the *Occupational Health and Safety Act 1991* (the OHS Act), and the following new WHS laws came into operation within the Commonwealth jurisdiction:

- the *Work Health and Safety Act 2011* (the WHS Act)
- the *Work Health and Safety Regulations 2011*
- the *Work Health and Safety Codes of Practices 2011*.

Health and safety committee

The department remains committed to the continuation of the Health and Safety Committee originally established under the OHS Act. With the commencement of the new WHS laws, the Committee's governance arrangements were reviewed. All Health and Safety Representatives (HSRs) continue to serve as members of the Committee, with the Committee chaired by the Assistant Secretary, People and Corporate Support Branch, and supported by WHS and case management specialists.

The Committee met three times during the year, with discussion primarily focused on the new WHS laws and review of the department's WHS Management Framework. Minutes of meeting were published on the department's intranet.

As a result of staff movements and relocations, seven new HSRs were appointed during 2011–12. Each HSR received accredited training to undertake their new role.

WHS management framework

The department's WHS Management Framework comprises a suite of policies, procedures and guidelines. In 2011–12, the department developed or revised the following four components of the WHS Management Framework:

- WHS Policy
- governance arrangements for the Health and Safety Committee, work groups, and HSRs
- Guidelines for Resolution of WHS Issues
- Overseas Travel and Deployment WHS Guidelines.

Major initiatives for 2011–12

Preparations for the commencement of the new WHS laws involved a significant communication and consultation process within the department, and across the Attorney-General's Portfolio and the APS:

- The department was represented and actively participated on the Harmonisation Steering Committee convened by the APSC which facilitated the sharing of best practice WHS solutions across the APS.

- A Harmonisation Project Plan and a communication and implementation timetable were developed to assist with managing transition to the new WHS laws.
- Harmonisation impacts and gap analysis were conducted, identifying the need to:
 - develop overseas travel and deployment WHS guidelines
 - review WHS induction and training processes
 - examine contractor WHS arrangements
 - review the department's WHS Management Framework.
- WHS briefings and workshops were provided to:
 - workers
 - the Health and Safety Committee
 - human resource managers from agencies across the Attorney-General's Portfolio
 - division SES Leadership Teams
 - the Audit and Risk Management Committee
 - the Senior Management Committee
 - the Executive Board.
- The department convened a forum for interested APS agencies on overseas travel and deployment to assist with identification and documentation of best practice risk management solutions, culminating in provision of overseas travel and deployment workshops for departmental employees, and implementation of new overseas travel governance arrangements.
- A new WHS Induction Program was developed and implemented, ensuring all new employees were informed on:
 - the new WHS laws
 - key WHS obligations and responsibilities
 - the department's WHS Management Framework
 - the Employee Assistance Program
 - the department's Health and Wellbeing Program
 - Incident and Accident Reporting
 - workstation assessment processes.
- The department's WHS intranet pages were updated.
- A WHS Checklist for briefing contractors, visitors and new employees upon their entry to departmental controlled workplaces was developed.
- A desktop survey of higher-risk operations within the department and across the Attorney-General's Portfolio was conducted, with survey results reported to the department's Executive and the Secretaries Board.

A WHS Improvement Plan was also developed to assist with mapping strategic and operational WHS priorities that will enhance the department's WHS Management Framework in the coming financial years.

Reporting of incidents and enforcement measures under the OHS Act and the WHS Act

Reporting of WHS incidents and enforcement measures for the period 1 July to 31 December 2011 is made under the repealed OHS Act, and for the period 1 January to 30 June 2012 is made under the WHS Act.

Table 14.3: Reporting of incidents and enforcement measures under the OHS Act (1 July 2011 to 31 December 2011)

Section 68 Occurrences – Notification and Reporting of Accidents and Dangerous Occurrences	Four accidents and dangerous occurrences were reported under section 68 of the OHS Act
Section 29 Notices – Provisional Improvement Notices	No notices were issued under section 29 of the OHS Act
Section 30 Notices – Duties of Employers in relation to Health and Safety Representatives	No notices were issued under section 30 of the OHS Act
Section 41 Investigations – Investigations addressing Compliance and Possible Breaches	No investigations were conducted under section 41 of the OHS Act
Section 45 Directions – Power to direct that workplace, etc not be disturbed	No directions were given to the department under section 45 of the OHS Act
Section 46 Notices – Power to Issue Prohibition Notices	No notices were issued under section 46 of the OHS Act
Section 47 Notices – Power to issue Improvement Notices	No notices were issued under section 47 of the OHS Act

Table 14.4: Reporting of incidents and enforcement measures under the WHS Act (1 January 2012 to 30 June 2012)

Section 38 – Notifiable Incidents	Two accidents and dangerous occurrences were reported under section 38 of the WHS Act
Part 10 – Enforcement Measures (Improvement Notices, Prohibition Notices, Non-disturbance Notices, Remedial Action and Injunctions)	No investigations were conducted by the Regulator or enforcement actions taken under Part 10 of the WHS Act
Part 11 – Enforceable Undertakings	No Enforceable Undertakings under Part 11 of the WHS Act applied to the department’s operations

Table 14.5: Incidents reported to Comcare during 2011–12

Type of Incident	Number
Death of a person	0
Serious Injury or illness	5
Prescribed incapacity (30 or more working or shifts)	0
Dangerous occurrence/incident	1

Other initiatives and activities undertaken in 2011–12

The department continued to conduct regular workplace inspections during 2011–12. Inspections were facilitated by HSRs and assist with identifying hazards and potential risks in the workplace, and opportunities to improve safe work practices.

Accredited training, utilising external providers, was provided to designated first aid officers and fire wardens.

The department continues to train and utilise HSRs to conduct basic ergonomic workstation assessments, supported by external providers who are engaged to conduct more complex workstation and workplace assessments. During the financial year approximately 200 workstation assessments were conducted, with half of all assessments conducted in-house by HSRs.

The department again provided an influenza vaccination program for employees, with 564 employees electing to receive vaccinations during April and May 2012.

The department maintains an Employee Assistance Program for all employees. The program provides free, confidential and professional counselling services to help resolve work and other issues that may affect an employee's work performance.

Workers' compensation performance

As a result of improved injury prevention and management strategies implemented since 2004-05, the department's workers compensation premium for 2011-12 was 0.18 per cent of payroll costs, a reduction from 0.23 per cent of payroll costs for 2010-11. This performance compares highly favourably with the department's starting point of 1.79 per cent of payroll costs in 2004-05 and the average premium rate for all Australian Government agencies in 2011-12 of 1.41 per cent of payroll costs.

Table 14.6: Premium rate comparison, 2008-09 to 2011-12

Premium	2008-09	2009-10	2010-11	2011-12
Attorney-General's Department	0.45	0.36	0.23	0.18
All agencies (average)	1.36	1.25	1.20	1.41

Table 14.7: Mechanism of injury for accepted claims, 2008-09 to 2011-12

Mechanism	2008-09	2009-10	2010-11	2011-12
Falls, trips and slips	-	1	1	4
Hitting objects with body	1	-	-	1
Being hit by moving objects	-	-	-	-
Sound and pressure	-	-	-	-
Body stressing	1	1	1	5
Heat, electricity and other environmental factors	-	-	-	-
Chemical and other substances	-	-	-	-
Biological factors	-	1	-	-
Mental stress	1	1	1	2
Other and unspecified	-	-	1	-
Total	3	4	4	12

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Mark Hayes, Information Division.

State of the art technology support for the National Crisis Coordination Capability Program

The National Crisis Coordination Capability Program (NCCCP) was established in 2008 after the government received recommendations to centralise information and coordination to improve the way the Prime Minister and Cabinet are briefed during a crisis. The NCCCP consists of three separate but interconnected functional environments – a Parliament House Briefing Room (PHBR), an all-hazards Australian Government Crisis Coordination Centre (CCC) and a redundant (backup) site in the ACT.

The Attorney-General's Department's Information Division was integral in finalising a project to bring together the information and communication technology (ICT) infrastructure and systems necessary to ensure continuous and consistent ICT service to the CCC. The project integrated systems from the department with those of the Australian Federal Police, Department of Foreign Affairs and Trade, Department of Defence and Department of Finance and Deregulation. This allows for the sharing of information through secure network infrastructure and innovative audiovisual presentation solutions.

The project allows for future expansion, facilitating the connection of any participating government agency to the CCC.

During the project the department project leader, Mark Hayes, and his small team developed a range of flexible technology solutions to support the functions of the PHBR, the CCC and the redundant site. In particular, the audiovisual solution delivered to the CCC can bring together information from a number of agency systems operating on different security platforms and present this information in Parliament House.

The team developed innovative information technology solutions which met the stringent security standards of the Australian Government. These solutions represent an innovative use of technology which had not been achieved before within the government sphere. The results of the project could be deployed across other government agencies, supporting greater interconnectedness of government.

Mark states the project was 'an exciting opportunity to develop innovative solutions and build capability across government' and he is 'proud of the way the team brought the project to fruition'.



Social equity

Social justice

In pursuing its mission of achieving a just and secure society, the department is working on a social justice agenda. This agenda is founded on the principles of access and equity and the rights of all citizens to live in a just and secure society.

It accords with the *Charter of public service in a culturally diverse society*.

A key responsibility of the department is developing and maintaining a federal system of justice that serves individuals, families, business and the community. The department is undertaking initiatives to progress particular social justice objectives, which are documented in the performance reports section of this report. The programs and activities the department undertakes support the objective of promoting social justice.

Social inclusion agenda

The whole-of-government social inclusion agenda aims to give every Australian the help they need to access the support and opportunities our society has to offer. The department is responsible for advancing this agenda from a law and justice perspective. Law and justice issues can be both a cause and symptom of social exclusion and disadvantage. The work of areas in the department, and portfolio agencies, is aimed at minimising harmful contact with the legal system and maximising its potential to protect people and impact positively on their lives.

Legal assistance is an essential contribution to addressing disadvantage, by improving access to justice and increasing social inclusion. Legal assistance provides vulnerable Australians with the means to address issues early and avoid escalation. It also assists in addressing entrenched disadvantage, escaping domestic violence and other serious issues.

The department provides legal assistance through funding legal aid commissions, community legal centres, Aboriginal and Torres Strait Islander legal services and Indigenous family violence prevention legal services, and legal financial assistance schemes.

The National Partnership Agreement on Legal Assistance Services includes a focus on the appropriate targeting of legal assistance to people who are, or are at risk of, being socially excluded. The agreement is currently under review to assess the quality, efficiency and cost effectiveness of Commonwealth-funded legal assistance programs.

Key initiatives aimed at further protecting and promoting human rights that the department progressed during the year included implementing the *Human Rights (Parliamentary Scrutiny) Act 2011*, which is designed to encourage early and ongoing consideration of Australia's human rights obligations in policy and legislative development.

The department and the Australian Human Rights Commission are working on a number of initiatives under Australia's Human Rights Framework aimed at further protecting and promoting human rights. The National Action Plan for Human Rights will also be a key mechanism for improving both the protection and promotion of human rights.

Under Australia's Human Rights Framework, small grants are provided to a wide range of community organisations to deliver practical, grassroots human rights education projects for the community and vulnerable groups. The 2011–12 round of grants awarded approximately \$460,000 to fifteen non-government organisations to deliver innovative human rights education programs across Australia.

The department has been an active participant in the National Anti-Racism Partnership, which has been developing a National Anti-Racism Strategy for implementation over the coming three years. The Partnership is led by the Race Discrimination Commissioner and the Australian Human Rights Commission. The aim of the Strategy is to promote a clear understanding in the Australian community of what racism is, and how it can be prevented and reduced. The National Anti-Racism Partnership and Strategy is an initiative of Australia's Multicultural Policy, *The People of Australia*.

Access to justice

Access to justice is fundamental to the recognition of the rights of every Australian and is key to promoting social inclusion. The Government's Strategic Framework for Access to Justice in the Federal Civil Justice System seeks to ensure all Australians have equal access to justice.

Key access to justice initiatives that the department progressed during the year included:

- developing the Access to Justice (Federal Jurisdiction) Bill 2011 introduced into Parliament on 23 November 2011. The Bill implements model national provisions concerning suppression orders and vexatious proceedings, enhances Federal Court powers concerning discovery, enhances Administrative Appeals Tribunal flexibility in dealing with fees and aligns jurisdictional limits for WA family law and federal magistrates. These measures will increase the flexibility of courts and tribunals to deliver access to justice
- developing the Trans-Tasman Proceedings Regulation 2012. Once associated changes have been made to court rules in all states and territories, the agreement between the Government of Australia and the Government of New Zealand on Trans-Tasman Court Proceedings and Regulatory Enforcement can enter into force, and there will be streamlined procedures for legal proceedings and enforcement of orders and regulatory fines between the two countries

- assisting the National Alternative Dispute Resolution Advisory Council to develop a joint publication, *Your Guide to Dispute Resolution*, which contains readily accessible, useful information about alternative dispute resolution and gives practical tips on using ADR
- implementing the National Partnership Agreement on Legal Assistance Services to help disadvantaged Australians resolve legal problems and disputes before they escalate and lead to entrenched disadvantage
- enhancing legal assistance forums in each state and territory to consider opportunities for better coordination and targeting of legal assistance services
- commencing the review of the National Partnership Agreement on Legal Assistance Services to help ensure that Commonwealth-funded legal services are delivering the most cost-effective legal assistance services to those most in need
- refocusing the provision of legal financial assistance on disbursement assistance, with legal representation costs only provided in exceptional circumstances, to enhance support for pro bono work
- four grants totalling \$400,000 which were awarded under the National Broadband Network Regional Legal Assistance Program, part of the Government's \$4 million investment to improve access to legal assistance services for people living in regional Australia.

Legal assistance programs

The department administers four legal assistance programs to provide access to legal services for disadvantaged Australians. Assistance may be provided for legal information, advice, advocacy, dispute resolution, duty lawyer services in the courts, legal representation, community legal education and referral services. These legal assistance programs are:

- The Legal Aid Program funds legal aid commissions in each state and territory to provide legal assistance services to the most disadvantaged. The commissions provide comprehensive legal assistance services to help resolve problems and disputes on matters arising under Commonwealth laws and in the area of early intervention and prevention.
- The Community Legal Services Program supports and funds community legal services as part of the Commonwealth's contribution to the maintenance of effective systems of access to justice and legal assistance. The Program provides funding for generalist as well as specialist community legal services – 138 in total. Specialist sub-programs include services for women (including Indigenous and rural) and youth as well as child support, disability discrimination matters, welfare rights, and environmental issues. Services provided by community legal centres may include information and referral, legal advice and ongoing legal assistance.
- The Indigenous Legal Assistance and Policy Reform Program supports and funds Aboriginal and Torres Strait Islander legal services to provide high quality, culturally sensitive legal assistance services, including duty lawyer, advice, case work and representation in criminal, civil and family law matters.
- The Family Violence Prevention Legal Services Program supports and funds culturally sensitive family violence prevention legal services for Indigenous Australians in rural and remote Australia who are victim survivors of family violence or sexual assault.

The department also administers financial assistance schemes, under which it provides funds to individuals and organisations for legal costs and related expenses where legal aid is not available. Funds are available for legal matters under a wide range of statutory and non-statutory schemes.

Family law

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

The department has commissioned Macquarie University to develop 'LawTermFinder', an online glossary of common terms used in the family law system, which will help provide clearer definitions of family law related terminology. LawTermFinder draws on Macquarie University's expertise in developing online glossaries or term banks in other subject areas, and utilises legal expertise from the Australian National University's Law School.

The department has commenced accepting applications under the Agreement between Australia and the Republic of Lebanon regarding Cooperation on Protecting the Welfare of Children. The Agreement establishes formal procedures to assist parents of either country whose children have been abducted by a parent to either Lebanon or Australia, or where difficulties with contact between a parent and child have arisen. The Agreement is in Australia's interests because Lebanon is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Rights for people with disability

The department has continued work to enhance the rights of people with disability through projects that will have a significant impact on their rights to access essential community services and infrastructure. These projects include:

- identifying and progressing initiatives that will be included in Australia's National Human Rights Action plan, including:
 - a commitment to work with the states and territories to clarify and improve laws and practices governing the sterilisation of women and girls with disability, and
 - participating in a National Justice CEOs working group on Mental Illness and Cognitive Disability. The group is examining mechanisms employed within the criminal justice system to address the needs of people with a mental illness and/or cognitive disability and investigate the role that the justice system can play in supporting diversion outcomes for these groups. This project will have a strong focus on the needs of Aboriginal, Torres Strait Islander and Maori people.

- working in partnership with other departments to progress initiatives that aim to improve human rights of persons with disabilities, including the National Disability Strategy, the review of the Disability Standards for Education 2005 and the review of the Disability Standards for Accessible Public Transport 2002 and the National Disability Insurance Scheme
- working on a project under the auspices of the National Forum on Emergency Warnings to the Community to develop guidelines that address the communication needs of people with disability during emergencies. The guidelines will be finalised and published in September 2012 following completion of a two-stage consultation process with a key stakeholder group consisting of representatives from disability advocacy organisations. The guidelines will support the National Disaster Resilience Strategy and National Disability Strategy principles whilst building partnerships between the emergency management community and people with disabilities.

Indigenous-specific programs and services

Indigenous Legal Assistance and Policy Reform Program

The Indigenous Legal Assistance and Policy Reform Program funds Aboriginal and Torres Strait Islander legal services to provide high quality, culturally sensitive legal assistance services, including duty lawyers, advice, case work and representation in criminal, civil and family law matters. The majority (88 per cent) of service outlets are located in regional, rural and remote locations. Outreach service models are employed to ensure legal assistance services are available at court circuits and bush courts.

Funding is also provided to the Aboriginal and Torres Strait Islander legal services to undertake law reform and advocacy activities that identify and aim to lessen the adverse or disproportionate impact of laws, policies and practices that have the effect of discriminating against Indigenous Australians. The Aboriginal and Torres Strait Islander legal services also deliver a range of community legal education activities such as information sessions, advice brochures and outreach visits to remote communities, to advance and protect the rights of Indigenous people under Australian law.

The Indigenous Law Centre at the University of New South Wales is funded to produce the *Indigenous Law Bulletin* and the *Australian Indigenous Law Review*. These publications are designed to advance the legal rights of Indigenous Australians through public policy and law reform and community education.

Funding is available for Indigenous test cases that meet relevant eligibility criteria. The aim of test case funding is to benefit Indigenous Australians through the review and resolution of ambiguities in law that may be discriminatory and that have not previously been tested before a court.

The Australian Government also funds relevant national projects and conferences relating to Indigenous justice. The National Aboriginal and Torres Strait Islander Legal Services Forum is funded to conduct quarterly national meetings and undertake advocacy and law reform work.

Indigenous Justice Program

The department provides funding through the Indigenous Justice Program to help respond to the disproportionately high rates of Indigenous offending and incarceration. Funding is provided across four key areas: prisoner through care, youth prevention and diversion, restorative justice, and community patrols. In 2011–12, the department funded forty-five projects, including twelve Petrol Sniffing Strategy projects.

Prisoner Through Care projects provide rehabilitation services to incarcerated Indigenous youth and adults and positive pathways on release to support successful reintegration in the community. Youth prevention and diversion projects seek to reduce the number of at risk Indigenous youth coming into adverse contact with the criminal justice system. Restorative justice projects funded under the Program provide cross-cultural mediation and conferencing to prevent escalation of disputes and foster healthy dispute resolution behaviour in local communities. This helps to reduce adverse contact with the criminal justice system. Community patrols assist vulnerable Indigenous Australians, including intoxicated people and the homeless.

Petrol Sniffing Strategy

The department continued its involvement in the Australian Government's Petrol Sniffing Strategy to address the negative effects of substance misuse and petrol sniffing in Indigenous communities. This cross-agency approach includes demand reduction activities in the areas of education, justice and community support, and supply reduction activities such as the rollout of low aromatic fuel. The department's role is to fund activities for youth under the Indigenous Justice Program. Projects are in designated regions of Central Australia (Western Australia, South Australia and the Northern Territory), the East Kimberley in Western Australia, and Mornington Island and Doomadgee in Queensland. The department funded 12 projects in 2011–12.

Community night patrol services in the Northern Territory

The department funds community night patrol services across eighty communities in the Northern Territory. The services focus on increasing both personal and community safety and reducing the number of people being processed through the criminal justice system. The services assist people who are at risk of either causing or becoming the victims of harm in order to break the cycle of violence and crime in communities. The approach is to minimise harm by providing non-coercive intervention strategies to prevent antisocial and destructive behaviour.

Northern Territory Aboriginal Interpreter Service

In 2011–12, the Northern Territory Aboriginal Interpreter Service received total funding of \$1.9 million, including \$1.3 million under the ongoing appropriation and \$0.6 million under the *Closing the Gap* in the Northern Territory initiative. *Closing the Gap* funding supports the service to meet the increased demand associated with the Northern Territory Emergency Response and, in particular, matters relating to law and justice measures. It also contributes to training and professional development for Aboriginal language interpreters.

Native title

The Commonwealth's vision for native title is for faster, better outcomes with a focus on economic development for Indigenous communities. It is recognised that native title agreements are a valuable opportunity to establish and continue productive relationships between Indigenous people, government and industry. The native title system can make a significant contribution, whether through a determination of native title or through benefits paid under a native title agreement, in ensuring sustainable intergenerational benefits for Indigenous communities. The department is supportive of the Indigenous Economic Development Strategy as a positive contribution by government to improve economic and social outcomes for Indigenous Australians. Resolution of native title issues enhances spiritual well-being and cultural identity, provides recognition of people's ongoing connection to land and facilitates reconciliation with the wider community.

Other social justice issues

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

In support of the National Partnership Agreement on Homelessness, the department funds a range of legal assistance services, which target the precursors of homelessness and provide early intervention and prevention support for problems that trigger homelessness, including domestic and family violence, mental illness, tenancy, credit and debt problems, and family breakdown.

The Community Legal Services Program funding includes \$2.24 million over four years specifically to enhance access to legal assistance for people at risk of, or experiencing, homelessness.

Social and community services sector wage increases

On 22 June 2012, Fair Work Australia issued an Equal Remuneration Order that grants increases to the minimum wage rates of workers in the social and community services (SACS) sector. There are 150,000 workers in this sector who will benefit from increases of between 23 per cent and 45 per cent that will be phased in over nine years. Significantly, around 120,000 of these workers are women and the increases represent an advance for equal pay for women.

The Australian Government has committed around \$3 billion to pay its share of the increases for eligible SACS employers delivering Commonwealth-funded programs and for eligible SACS employers it funds through Commonwealth-state agreements. This recognises the valuable contribution that the workers in this sector make in areas often described as 'caring' jobs, including working with Indigenous youth in remote communities, providing community legal services, counselling families in crisis, and working with victims of family violence.

The department's programs in scope for SACS funding are the Community Legal Services Program, Family Relationships Services Program, Family Violence Prevention Legal Services Program, Indigenous Justice Program, and Indigenous Legal Aid and Policy Reform Program. The date for affected employers to pay the first minimum wage increase is 1 December 2012 and annually thereafter for eight years until 1 December 2020. The Government is working to develop mechanisms to provide funding supplementation to employers that will enable them to meet their obligations by these dates.

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



“balancing respect for judicial independence with community expectations about judicial accountability”

OUR PEOPLE

Loren Cousins and Thomas Browne,
Access to Justice Division.

Judicial complaints legislation

A significant milestone in development of reforms to federal judicial complaints handling was achieved in 2011-12. The department developed legislation to implement a key priority of the Attorney-General – to provide a clear, accountable and effective system for handling complaints about federal judicial officers. The Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill and its companion, the Courts Legislation Amendment (Judicial Complaints) Bill, were introduced into Parliament on 14 March 2012.

An effective system of judicial complaints handling is important for public confidence in the administration of justice in our courts and in the role of the judiciary.

The Judicial Complaints Bill supports a largely non-statutory complaints framework within the courts where the Chief Justices of the Federal Court and Family Court and the Chief Federal Magistrate manage complaints about judicial conduct that are referred to them. The Parliamentary Commissions Bill provides a standard mechanism for investigating an allegation about judicial conduct where Parliament is called upon to consider removal of a judge from office under the Constitution.

'Development of the legislation was a great challenge as it raised complex issues involving judicial independence, parliamentary process and practical administrative and governance arrangements', said Loren Cousins, a Senior Legal Officer in the department's Federal Courts Branch.

'Because the legislation has implications for the Commonwealth Legislature, Judiciary and Executive, we consulted broadly with the federal courts, parliamentary officers and across government, which was an interesting experience', Loren said.

Judicial complaints handling is an area of strong interest for stakeholders and the general public. Thomas Browne, a Legal Officer in the Branch, has been involved in the department's contribution to two Parliamentary committee inquiries into the legislation after the Bills were introduced.

'The diversity of perspectives arising from submissions to the inquiries highlighted for me the importance of appropriately balancing respect for judicial independence with community expectations about judicial accountability, which I am proud to think this legislation will promote', Tom said.

The department is continuing to work closely with the courts to implement the reforms.



Ecologically sustainable development

The department reports under section 516A of the *Environment Protection and Biodiversity Conservation Act 1999* on how its activities accord with, and its outcomes contribute to, the principles of ecologically sustainable development, as well as the effect of its activities on the environment.

The department's activities are consistent with the ecologically sustainable development principle (section 3A of the Act) that 'decision making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations'. Further information on the environmentally sustainable development principles can be found at www.environment.gov.au/esd.

The department also addresses the principles of 'inter-generational equity' and 'improved valuation, pricing and incentive mechanisms' by applying the Chief Executive Instructions on Environmental Management and the Green Lease Schedule. The department is consolidating and implementing an Environmental Management System in accordance with ISO14001. Principles b and d of section 3A of the Act, which relate to scientific certainty and biological diversity respectively, are generally of limited application to the department's activities.

Energy and water at 3–5 National Circuit Barton

The department's premises at 3–5 National Circuit are the outcome of the first Commonwealth green lease to be negotiated. Under the National Australian Built Environment Rating System, the premises have achieved a 5 star rating for energy and a 4.5 star rating for water.

Green strategies

The department has implemented a number of strategies to minimise impact on the environment, including:

- an electronic document management system to reduce the need to print and retain paper copies of most documents
- web-based information sharing tools, such as Govdex, that reduce the need to edit, print and retain paper copies of documents
- virtualising server hardware to reduce energy consumption
- the FollowME Print facility, which reduces the amount of paper and toner being used
- recycling facilities in work areas, as well as paper recycling in utility rooms
- 100 per cent recyclable A4 and A3 paper
- reviewing leased buildings and cooperating and encouraging building owners to improve energy performance
- using a smart lighting system that activates only when areas are occupied
- ensuring that any new leases entered into comply with the government's energy policy
- procuring energy-efficient equipment and lighting solutions.

The department uses secure and non-secure videoconferencing facilities to conduct a range of business activities. The use of videoconferencing has reduced the need for local and interstate travel.

Ecologically sustainable ICT

The whole-of-government Australian ICT Sustainability Plan is being implemented. The Plan mandates environmental standards for information and communications technology acquisitions and energy targets. Further information on the ICT Sustainability Plan can be found at www.environment.gov.au/sustainability/government/ictplan/index.html.

Events for the environment

The department participated in Earth Hour 2012 on 31 March 2012 by reducing lighting within its buildings to emergency lighting only. This activity continues to raise awareness among staff about ways they can help take action on climate change.