

31 August 2002

## LEGAL COSTS COMMITTEE ANNUAL REPORT

In accordance with Section 66 of the *Financial Administration and Audit Act 1985* I submit to the Honourable James Andrew McGinty BA B Juris (Hons) LLB JP MLA, Attorney General, for information and presentation to Parliament, the Annual Report of the Legal Costs Committee of Western Australia for the period 1 July 2001 to 30 June 2002.

A handwritten signature in black ink, appearing to read 'Ted Sharp', is positioned above the printed name.

Ted Sharp  
**CHAIRMAN**

# **LEGAL COSTS COMMITTEE**

## **ANNUAL REPORT**

**2001 - 2002**

## LEGAL COSTS COMMITTEE

The Legal Costs Committee was established following the proclamation of the *Acts Amendment (Legal Practitioners, Costs and Taxation) Act 1987* on 12 February 1988. The Committee is responsible under the *Legal Practitioners Act 1893* (Act) for making determinations for the remuneration of legal practitioners in respect of the matters specified under Part VI Divisions 1 and 2 of the Act (as well as other legislation) in the following jurisdictions:

- ◆ Non-contentious business carried out by practitioners
- ◆ Supreme Court
- ◆ District Court
- ◆ Local Court
- ◆ Court of Petty Sessions
- ◆ Workers' Compensation Proceedings
- ◆ Official Prosecutions (Defendants' Costs)
- ◆ Public Notaries

Prior to the establishment of the Legal Costs Committee those fees (except for the newer scales in relation to the Court of Petty Sessions and Public Notaries) were set by the Judges of the Courts or by the Under Secretary for Law as the case required.

During the period 1 July 2001 to 30 June 2002 the Committee consisted of:

Mr TH Sharp, a Partner of Freehills, Barristers Solicitors & Public Notaries, (Retired 29 July 2002 and Re-appointed 30 July 2002) as Chair.

Mr MJ McPhee, a Partner of Michel Sillar McPhee, Solicitors, as Deputy Chairman, (Appointed 27 September 2001);

Ms J Vander Wal, Legal Practitioner (Retired 18 June 2002);

Mr P Coward, Managing Director, Talbot Walsh and Company (Retired 18 June 2002);

Ms A Gaffney, Chartered Accountant, RSM Bird Cameron Chartered Accountants, (Retired 16 June 2001 and Re-appointed 27 September 2002);

Ms Janine Freeman, Industrial Officer, Australian Liquor Hospitality & Miscellaneous Workers Union (Appointed 27 September 2001)

The Committee as in the past, endeavoured to meet on a monthly basis. In the 2001/2002 Financial Year, the Committee met on 9 occasions, being less than usual given that until the appointments outlined above were made, properly constituted meetings could not be convened.

Even so, the Committee was able to complete a number of reviews (some commenced in

the previous Financial Year) resulting in the Determinations listed in paragraph 1 below.

**1. Determinations - 2001/2002 Financial Year**

- (a) Legal Practitioners (Supreme Court) (Contentious Business) Determination 2002.
- (b) Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2002.
- (c) Legal Practitioners (Public Notaries) Determination 2002
- (d) Legal Practitioners (Official Prosecutions) (Defendants' Costs) Determination 2002

The Committee had hoped to complete a review and determination of the Local Court and Court of Petty Sessions scales (more fully described in paragraph 2 below) but notes that:

- (a) The GST Determination made in 2000 meant that a review was not due under the Act until the 2002/2003 Financial Year; and
- (b) The Committee could not meet with the appropriate quorum until 2001 pending the appointments and re-appointment of Members detailed in the earlier part of this Report and the absence of the Chair on leave in October.

**2. Determinations anticipated in 2002/2003 Financial Year**

The Committee anticipates that it will complete reviews and determinations in respect of the following for the next financial year:

- (a) Legal Practitioners (Local Court) (Contentious Business) Determination 2000;
- (b) Legal Practitioners (Petty Sessions) (Contentious Business) Determination 2000;
- (c) Legal Practitioners (Workers' Compensation) (Conciliation Proceedings, Renew Proceedings and Compensation Magistrate's Court) Determination 2000;
- (d) Legal Practitioners (Solicitors Costs) Determination 2000;
- (e) Legal Practitioners (Solicitors Non-Contentious Probate Costs) Determination 2000.

### 3. Performance Measures

<i>OUTPUT</i>	<b>2001/02</b>		
	<i>TARGET</i>	<i>ACTUAL</i>	<i>VARIANCE</i>
<i>Quantity</i>	2	4	+2
<i>Quality</i>	70%	Not Assessed	N/A
<i>Timeliness</i>	In accordance with statutory requirements.		
<i>Cost</i> (Average cost per determination)	\$22,912	\$22,912	0

### 4. Accounts and Performance Indicators

The annual accounts and performance indicators for the year ended 30 June 2002 are attached.

### 5. Report on Operations

The Legal Costs Committee does not employ staff nor does it have its own premises. The facilities used by the Legal Costs Committee comply with the requirements listed under the *Financial Administration & Audit Act 1985* and are covered by either the Department of Justice or the Ministry of the Premier and Cabinet.

### 6. General Comments

From the Chair's perspective, all Committee Members carried out their duties (as they have done in the past) in a most conscientious and productive manner. The contributions of our retiring Members were much appreciated.

I consider that given the period of time when the Committee could not function due to lack of sufficient appointed Members to constitute a quorum, the Members have achieved a good outcome for the 2001/2002 Financial Year.

The Committee is generally up to date with reviews of its Determinations as required under the Act but it recognises that it must continue to be alert to changes which might create the need to further review any of the scales at any time.

For example, now that the GST has been in operation for 2 years, the Committee considers it is in the interests of the providers and consumers of Legal Services that as and when each of the Scales of Costs are reviewed, each Determination should be made on the basis that the costs concerned are inclusive of GST.

### 7. Executive Assistance

The Committee wishes to acknowledge the valuable help and assistance provided during the year by Ms Ramah Raymond and Ms Suzanne Yong of Courts Tribunals who have offered the Committee and myself in particular, great assistance with the administration of the Committee and publication of our Notices, Reports and Determinations.

Lastly, but by no means least on behalf of the Committee, I wish to express its appreciation for the valuable assistance provided to it by Mr John Lightowlers of the Department of the Premier and Cabinet. John attends our meetings regularly in his own time and provides great assistance to the Committee with his drafting and general knowledge.

A handwritten signature in black ink, appearing to read 'Ted Sharp', with a stylized, cursive script.

Ted Sharp  
**CHAIRMAN**

## LEGAL COSTS COMMITTEE

### PERFORMANCE INDICATORS

2001-2002

#### OUTCOME

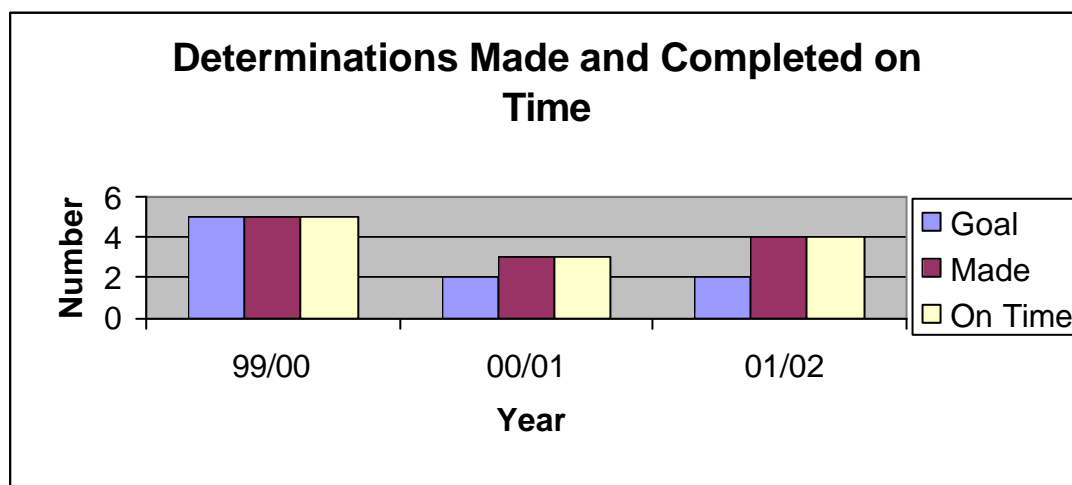
In accordance with Section 58X of the Legal Practitioners Act 1893, to review each determination in force at least once in the period of two years in the following jurisdictions:

- ◆ Supreme Court
- ◆ Local Court
- ◆ Court of Petty Sessions
- ◆ Workers' Compensation (Conciliation Proceedings, Review Proceedings and Compensation Magistrate's Court)
  - ◆ Non-Contentious Probate Costs
  - ◆ Solicitors Costs
  - ◆ Official Prosecutions (Defendants' Costs)
  - ◆ Public Notaries
  - ◆ District Court (Appeals)

#### EFFECTIVENESS INDICATOR

The extent to which Legal Costs Committee determinations are completed in accordance with established deadlines, including the goals set at item 2 of the Annual Report for the year ended 30 June 2002.

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



The Committee stated its intention to make determinations during the financial year

**ended 30 June 2002 in respect of:**

- a) Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2002;
- b) Legal Practitioners (Supreme Court) (Contentious Business) Determination 2002; and
- c) The impact of GST

The Legal Costs Committee does not employ staff but the administrative function is undertaken at no cost by staff from the Salaries and Allowances Tribunal and the Department of Justice. As such, the development of further efficiency indicators would not be meaningful or relevant.

### **EFFICIENCY INDICATOR**

Efficiency Indicator measures cost per Determination.

- (a) 1999-2000

Five Determinations were made in the 1999/2000 financial year at a cost of \$15,645.00 per Determination.

- (b) 2000-2001

Three Determinations were made in the 2000/2001 financial year at a cost of \$30,461 per Determination. The significant increase in costs per Determination this year is due to the increase in the Committee's costs (see Note 1 below) and the lesser number of Determinations made (see Note 2 below).

- (c) Four Determinations were made in the 2001/2002 financial year at a cost of \$22,912 per Determination

We hereby certify that the performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the Legal Costs Committee performance and fairly represent the performance of the Legal Costs Committee for the 2001/2002 financial year.



**CHAIRMAN**

**Date:** 30/8/02



**MEMBER**

**Date:** 30/8/02