V E R I F I E D V E R S I O N

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into the Impact on Victorian Government Service Delivery of Changes to National Partnership Agreements

Melbourne — 19 November 2015

Members

Mr Danny Pearson — Chair
Mr David Morris — Deputy Chair
Dr Rachel Carling-Jenkins
Mr Steve Dimopoulos
Mr Danny O'Brien
Ms Sue Pennicuik
Ms Harriet Shing
Mr Tim Smith
Ms Vicki Ward

Staff

Acting Executive Officer: Mr Phil Mithen
Senior Research Officer : Ms Leah Brohm
Senior Research Officer: Mr Jeff Fang

Witnesses

Mr Greg Wilson, Secretary,

Ms Marisa De Cicco, Deputy Secretary, Criminal Justice,

Mr Donald Speagle, Deputy Secretary, Civil Justice, and

Mr Simon Cohen, Deputy Secretary, Regulation, Department of Justice and Regulation.

The CHAIR — I declare open the public hearings for the Public Accounts and Estimates Committee inquiry into the impact on Victorian government service delivery of changes to national partnership agreements. All mobile telephones should now be turned to silent. I would now like to welcome Mr Greg Wilson, Secretary of the Department of Justice and Regulation; and Ms Marisa De Cicco, deputy secretary, criminal justice; Mr Donald Speagle, deputy secretary, civil justice; and Mr Simon Cohen, deputy secretary, regulation.

All evidence is taken by this committee under the provisions of the Parliamentary Committees Act, attracts parliamentary privilege and is protected from judicial review. Any comments made outside the hearing, including on social media, are not afforded such privilege. The committee does not require witnesses to be sworn, but questions must be answered fully, accurately and truthfully. Witnesses found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty. All evidence given today is being recorded by Hansard. You will be provided with proof versions of the transcript for verification as soon as it is available. Verified transcripts, any PowerPoint presentations and handouts will be placed on the committee's website as soon as possible.

Witness advisers may approach the table during the hearing to provide information to the witnesses, if requested, by leave of myself. However, written communication to witnesses can only be provided via officers of the PAEC secretariat. Members of the public gallery cannot participate in the committee's proceedings in any way.

I now give the witnesses the opportunity to make a very brief opening statement of no more than 10 minutes. This will be followed by questions from the committee.

Mr WILSON — Thanks, Chair. I was not proposing to give a presentation or spend 10 minutes with an opening address. You know the people we have here. I guess just to clarify that we understand that the initial questions were around the national partnership agreement on legal assistance services, but the department does have two other NPAs and a project agreement: the native title NPA and the seamless economy — the consumer affairs aspects of that — and we have a project agreement for the emergency warning system. The deputies here with me today each have oversight of those others. I think from my point of view the interesting thing is that those four documents are all quite different but they all sit under the same intergovernmental agreement on federal financial relations. They are quite useful to actually look at what works and what does not and the different features of each of them.

As I said, I was not proposing to make an opening statement other than those brief comments, and we are happy to take questions.

The CHAIR — I might draw you to page 44 of the whole-of-government submission that was provided to the committee and specifically the last sentence in the third paragraph. This relates to the NPALAS from July 2015, and the sentence states:

> This funding is primarily for the delivery of commonwealth legal assistance services in Victoria, in accordance with the commonwealth priorities set under the agreement.

My opening question is, in relation to this particular NPA and the number of legal assistance services that will be accessing this funding in Victoria, from your perspective are you finding, is it your experience or do you anticipate that this is going to be administratively difficult to manage, given the fact that you are getting money from the feds to diffuse across a number of legal services across the state? Is the commonwealth putting onerous reporting requirements upon you as part of the agreement?

Mr WILSON — I might just make a brief comment and then hand to Marisa, who deals with that part of the department. My understanding is that the additional burden is really with the Community Legal Centres and the ability to actually report back every six months in order to actually get the money, with the prospect of not getting it if they do not fulfil those requirements. But from a department point of view I do not think it is a burden on us, Marisa, in terms of the large number of recipients and getting the money out the door, so to speak?

Ms DE CICCO — No. Greg is right. The community legal sector in particular under this agreement will now have to undertake a range of reporting. Now, that is not to say that they do not report at the moment. They currently do record, as most normal legal firms would, their events and the files they open and the number of actual services they provide with respect to that particular client. The key challenge with this particular

NPALAS agreement is that the commonwealth has indicated that it will now cease to support what had been the information system platform that all the community legal sectors — not just in Victoria; this is across the country — currently operate to collect data. They had used that particular IT platform to report. At a recent Senate estimates committee hearing the Attorney-General's department indicated in that forum that they are cognisant that without that IT system there will be no capacity to capture the sort of data necessary under this particular agreement, so they have indicated that they will continue to support it for a limited period of time while the National Association of Community Legal Centres tries to find a replacement system. The particular NPALAS agreement does actually have a range of requirements in terms of priority service groups and priority clients that they will be expected to report against, and so there will need to be some comprehensive IT system that replaces the current existing CLSIS system, as they call it.

The CHAIR — In terms of the community legal centres — you might not be able to answer this question — have they historically found it difficult to report through their requirements to the commonwealth government or have they basically been quiet? Has it been a heavy administrative burden for the community legal centres?

Ms DE CICCO — I would probably say it has been a reasonable burden. I mean, in Victoria we have had far better and more articulated community legal centres in the sense that they are far more coordinated amongst themselves. They sort of share information, share experiences, they work quite interactively with Victoria Legal Aid. Here in Victoria we have had quite coordinated arrangements around the legal sector, if I can call it that. Victoria Legal Aid has for many years hosted a Victoria Legal Aid forum at which the Federation of Community Legal Centres, the VLA, the law institute, the Bar attend, and there is a range of other organisations that attend, including ourselves, the Department of Justice and Regulation. That has been a forum at which we coordinate, plan and discuss issues and challenges for the sector.

So we have had a very coordinated and collaborative approach to legal assistance provision in this jurisdiction for many, many years. That has actually put us always in good stead with respect to the commonwealth's reporting.

The CHAIR — If I could draw you to page 45 of the whole-of-government submission, table 8 — this is the 'National Partnership payments to States and Territories' legal aid commissions and community legal centres' — and the final column has commonwealth funding per capita, 2015–16. Victoria is getting the lowest amount on a per capita basis. Is that due in part to the fact that we have got more of a concentrated population base, or is it to do with the fact that there are greater efficiencies operating amongst the community legal services, so that there is a lower cost to deliver these services and hence a lower payment?

Mr WILSON — It is a bit of everything. The model they use — correct me if I am wrong, Marisa — is that they take into account population, measures of disadvantage and cost structures in running these services. So you see, for example, say, Tassie and the ACT, higher cost per capita, when I am assuming, Marisa, that would be due to the fact that there would be certain fixed costs that you have to incur to actually open and provide that service, so when you get down to averages they will have a higher average because they are small. But I guess in our case it will be a combination of those factors and it is possibly lower because of the scale of Victoria and the relativities around disadvantage would be different to, say, perhaps Western Australia and Queensland.

Ms DE CICCO — It has been a difficult issue to try and pin down why it was that our sector did not come up. Some of the other jurisdictions had significant increases, such as the Northern Territory and Western Australia. A lot of that is in the context of the sort of specific cohorts of disadvantage — Aboriginal communities et cetera.

The commonwealth did engage — I think we noted it in the submission — in a review by Allen's of sort of legal needs to try to distil down what might be appropriate factors to deploy in the distribution of funding. As Greg says, a lot of the dispersion issues — Victoria is a very compact state and so we do not have a lot of that dispersion, whereas Western Australia and the Northern Territory do and even Queensland has a significant component of that. Whilst we have quite a significant CALD community and a growing community of recently arrived migrants that does play into translation and interpreter service costs, it is a fair thing to say that we are quite a compact state.

Mr WILSON — I think the other point to make is that we do not get the model, do we?

Ms DE CICCO — No.

Mr WILSON — There is a list that I am trying to find here. Maybe it is in the analysis of need in schedule A to the agreement, but it is not like a spreadsheet where you can see the actual weights and calculations. We know they have regard to all of those things, and then we get the figures, and you divide one by the other and you get the per capita contribution.

Mr MORRIS — Chair, can I just pursue something on that, then I will get to the other issue I wanted to raise. So the formula is part of the agreement, as in the actual agreement presumably?

Mr WILSON — Yes. If I am reading this correctly, schedule A, 'Collaborative service planning', 'Evidence and analysis of legal need', which basically specifies the priorities and so on, but there is something else in there — I am sure I have read somewhere — where they actually list the things that they have regard to and working out the funding for each state. But as I said, it is a list. There is no 'Here's the spreadsheet, here are the weights, here are the calculations', and that is my understanding of how it has always been done.

Mr MORRIS — So unlike the allocation of commonwealth financial grants in Victoria where it is all published?

Ms DE CICCO — Yes. That is right.

Mr WILSON — That is right.

Mr MORRIS — That information is not available?

Ms DE CICCO — No.

Mr MORRIS — Presumably it would be helpful if it was.

Mr WILSON — In terms of a partnership, each state understanding the weights that have been attached to those different factors and how these things were calculated, more transparency would be a good thing I would have thought. Of course we would also want more weight on the things that would advantage a greater allocation. I guess that would help us understand how these numbers were derived, I guess.

Mr MORRIS — The issue I wanted to get to is an entirely different one. The question arises in part from the fact that, as you know, the committee has asked each department to prepare a submission, and the government has chosen — as is its prerogative — to respond on a whole-of-government basis. But what that means is we do not really get a sense of where things are working well and where they are not working so well. Certainly my experience suggests that across the Victorian public sector some departments or agencies do some things really well, while the same function may not be performed as well elsewhere. Sometimes there are logical reasons — in one area it is a major part of the business, and in another area it is a very minor issue — but what we cannot really draw out of this is what is working well and what is not working well. Are there any examples in the justice area where there is a really good agreement, or a really bad agreement?

Mr WILSON — I am not sure, Deputy Chair, if you would call it, say, good or bad, but there are certainly examples of types of agreements — say, for example, the seamless national economy — where you go back to the IGA and the federal financial relations and you look at the notion of a partnership funding received to deliver significant reforms. That certainly seems to have been the case with Australian Consumer Law, the weights and measures, business names, I think, Simon, and various other things. Money was paid to Treasury, you did those reforms and you got the money. That has been quite successful. The emergency management project agreement is another one where, following on from the Black Saturday fires, a COAG meeting said, 'We need to do more; we need a national emergency warning system'. The commonwealth put up the money to Victoria, which was a different sort of model, using one state to be the lead negotiator on all of that, so we did the negotiations with Telstra as the provider.

Mr D. O'BRIEN — On behalf of the other states?

Mr WILSON — Yes. There is an intergovernmental agreement that spells out our role with respect to the other states and so on. That has delivered those upgrades and so on. The native title one is a different one again, where it was really a financial contribution to settle two claims — the Dja Dja Wurrung and the Gunaikurnai. That money has been given, those have been settled. And then you get to the NPAs on, say, legal assistance services, which to me is an ongoing service with ongoing and rising demand.

I think that is where you get the challenges. It is not one big reform or one big project; it is constant demand. I guess the commonwealth would say there are reform aspects embedded in the approach that we have taken to this NPA, but typically they would be things that get you into specifying that there be collaborative service arrangements, for example. You get specification in the agreement that says there will be two meetings a year — you know, down into that level of detail. But as I say, the commonwealth would argue presumably that that is all about reforming and improving the service. Others might argue that perhaps if that is the outcome, the states and the service providers could work out those sort of service delivery reforms. But I can understand where they get to.

Then there is the question of the amount of money, which is shrinking relative to the states over the years, as I understand it, which creates a bit of tension as well relative to those other projects where there is an up-front amount of money to do the capital to get a national emergency warning system up and running, there is a fixed amount to settle these two native title agreements and there is an amount on offer to do the national seamless economy, and it is there and you know about it. I think the ongoing service delivery issues have to wait until their budget is finished, so you get to mid-May, and it is for a five-year agreement that starts on 1 July. It is the continuity of ongoing services that has made these things not as applicable perhaps — —

Mr MORRIS — Yes, so the NPs are not as well suited to provision under those circumstances?

Mr WILSON — In my view if it is ongoing and it is clear it is going to be ongoing and growing, perhaps it is more suited to the specific purpose payment arrangements, or we have an adjacent agreement with rewards for reforms, but this one is kind of all bundled up together. I guess they are my personal observations about the four agreements we have and how they compare.

Mr SPEAGLE — Greg, is it correct to say that there was no national agreement originally in 2008 that would be a clear mechanism to provide ongoing funding for legal assistance services? There were national agreements, as you know, on health and education and so on. That is another challenge in dealing with an ongoing service delivery situation.

Mr MORRIS — Yes. Perhaps — and we have had this discussion in other areas — if you need to prove a concept, then the NP process might be the way to prove up the concept, but once you have completed the project and proved the concept, then you need a mechanism to roll it into an ongoing and more predictable funding stream.

Mr WILSON — The emergency management ones are a little bit like that. We had the up-front agreement to get the thing established, and now we have got an intergovernmental agreement which governs the ongoing relationship between us and the other states and the network providers, which is a separate document once the up-front investment had been made.

Mr MORRIS — Right. Is funding involved in that IGA?

Mr WILSON — No. The commonwealth was clear that it was up-front and the rest of it is really that relationships between individual states and the network owners.

Mr MORRIS — Okay. So it is slightly different.

Mr WILSON — It goes into that journey of being a continuous relationship around a service separate from the up-front investment to make the thing happen.

Ms DE CICCO — One of the challenges with the legal assistance sector is that each state adopts a slightly different approach and has quite a different structure. Victoria, New South Wales and, to a certain extent, Queensland have quite a significant number of community legal centres that operate in representation and advocacy and other services. Some of the other jurisdictions have far fewer. We are one of the few states that actually provide state appropriation funding to the community legal centres, whereas other states do not, so there is quite a disparity in terms of the maturity, for want of a better word, of the community legal sectors in each jurisdiction. That is no criticism of them; it is just a fact of history.

Mr MORRIS — Just a fact of life, yes.

Mr D. O'BRIEN — What is the distinction between legal aid commissions and CLCs? Are commissions the state government branch, which then in our case funds the CLCs?

Ms DE CICCO — No, and it is slightly different in each jurisdiction, but — —

Mr D. O'BRIEN — For Victoria?

Ms DE CICCO — Victoria Legal Aid is the statutory authority or entity, if you like, created under statute in Victoria. It has a board that administers legal assistance services both from state appropriation funding and in Victoria's case it also receives funding via the legal services commissioner via the Public Purpose Fund, which is also part of the statute, so that is a statutory formula that delivers that funding, and then it also administers funding to the community legal centre as part of the appropriation pass through.

Mr D. O'BRIEN — From the NDA?

Ms DE CICCO — No, from the state budget — state budget appropriation.

Mr D. O'BRIEN — Does Victoria Legal Aid get any of that money from the legal assistance services NDA?

Ms DE CICCO — It administers those funds through to the CLCs, whereas the CLCs derive their funding from a range of sources, both state and commonwealth appropriation as well as private sources.

Mr T. SMITH — At a broad level, I suppose what I am getting at is that we have sort of a one-size-fits-all approach from Canberra whereby we have a national partnership agreement through COAG which essentially provides roughly the same thing to each and every state, given certain performance measures per capita or whatever you like, but it is all essentially the same agreement. This is not necessarily a question about Justice, but would the commonwealth be better off having bilateral relations with each and every state, given the particular circumstance? I would have thought that implementation of a justice department in the Northern Territory is fundamentally different to Victoria, for example.

Mr WILSON — I think it would be too difficult to actually do them separately, because they will have a budget allocation for a particular purpose, whether it is a reform, a project or service delivery, that has to be distributed amongst the states. If you go back, to me, the overarching document — the IGA on the FFR — and you look at the principles there of recognition of the states and the primacy of their role in doing the doing, and the commonwealth, the principles of winding back commonwealth prescription, getting into the input side, I think retaining them as multijurisdictional agreements is a good thing. It is just making sure they are more consistent, perhaps, with some of those high-level design principles that were envisaged in that framework several years ago.

I do not think it is a problem having all of the states in one negotiation process. I think the issues are more what we have talked about in terms of ongoing service delivery with agreements that are time limited, and the pressure is on the commonwealth in terms of the budget processes and being able to consult with everyone in those time frames.

Mr T. SMITH — I suppose a follow-on from there so I can get an understanding, as an elected representative who has never worked in a state department: how much collaboration do you have, for example, with your federal counterpart, not at a ministerial level but at a departmental level?

Mr WILSON — Most portfolios or departments have senior officials meetings, so we meet as a group. Then there are the standing committees and then there is COAG, with first ministers and ministers, and then we have regular meetings as justice secretaries. But on your point around them being different, I think Victoria and New South Wales basically have the lot — Corrections, Attorney-General, Liquor/Gaming and so on. Some others — the Northern Territory, WA — have the Corrections part of it separate. But we would catch up at least twice a year formally and then two or three times in between those formal meetings to discuss things, share ideas and so on.

Mr T. SMITH — All right, thank you.

Mr COHEN — If I can give an example in the consumer affairs space, coming out of the seamless national economy reforms for the Australian Consumer Law, a separate intergovernmental agreement on the ACL was set up that had a framework around a ministerial group, and then a senior officials group sitting under that that comprises the commonwealth, both the Treasury and the ACCC, as well as state-based regulators who meet probably two or three times a year to take a coordinated approach right across ACL issues as well.

Ms DE CICCO — And from the perspective of work at the secretary level versus, say, at our level, I would meet with the federation and the VLA on a formal, regular basis four times a year as part of that legal assistance forum with other parties from around the legal assistance sector. We also meet with the national community legal centres group, the association, as well on a regular basis. We also meet with the Attorney-General's department on a regular basis. There is a requirement for two formal meetings per annum with them, but there is also — —

Mr T. SMITH — When you say 'a requirement', is that under the — —

Ms DE CICCO — Under the partnership agreement there is that formal requirement, and we would meet informally, not in person — teleconferences et cetera — quite regularly.

Mr T. SMITH — Thank you.

Mr D. O'BRIEN — Just to follow up from that — sorry, a little bit off topic — but the national firearms agreement, is that Justice or Attorney-General or both? Do you have representatives in — —

Mr WILSON — We do. Is it police or the Attorney-General? It is us, anyway.

Ms DE CICCO — It is a police one. The national firearms agreement is a police one, but it was originally signed by first ministers because it did actually come out of — —

Mr WILSON — Port Arthur, wasn't it?

Ms DE CICCO — Port Arthur, and then the 2003 Monash shooting. It was a first ministers agreement that is administered by police ministers and Victoria Police and law enforcement agencies.

Mr DIMOPOULOS — Thanks for the breadth of representation, because you have quite different NPAs. It is a good example, what you gave before to the Deputy Chair. Mr Wilson's comments in relation to the seamless economy seemed to be consistent with the secretary of the DTF's comments in relation to the same NPA — I am not trying to put words in his mouth — that it was fairly successful. NPAs seem to lend themselves to those shorter term reform projects or capital projects.

Using that as an example, I just want to ask two questions to get a bit more of the flavour of it. What was the quantum of the funds involved in that project for you guys, for Justice? The quantum of funds: how much has the state government put in and how much did the federal government put in? Were they the biggest financial partner? The second question in relation to that is: whether this NPA or any other, once it is done and finished do you have a higher level of recurrent costs or a lower level of recurrent, ongoing costs because of it? So with the national assistant names index, or whatever you said before in relation to those, are you left carrying some further burden or left with a burden beyond the NPA's life?

Mr WILSON — I think on the seamless economy one we would probably say less of a burden. Simon? I am not sure of the amount of money. I think we have got $6 million or something like that.

Mr COHEN — Yes.

Mr WILSON — And that was actually administered by state Treasury, so that was the other dimension to it. Treasury would get the money, and then departments like us would need to work with our counterparts interjurisdictionally to get the reforms. But I might ask Simon to comment on that.

Mr COHEN — The overarching agreement had $550 million attached to it, which was commonwealth funding to the states to implement the seamless national economy. Of that, $136 million was ascribed to Victoria, of which $24 million was up-front funding, and then the remainder of it was reward funding for implementing 27 deregulation reforms and eight national priorities.

Greg is absolutely correct: the net impact of that has not only been reduced costs — for example, we no longer administer a separate state business names process — but significant positive impacts for the economy. For example, in 2012 the Productivity Commission estimated that the ACL reforms had added $880 million of value annually to the economy, and the national consumer regulatory regime had added $70 million a year of value to the national economy. So the outcomes were not only about reduced cost to administration but in fact improved operation of business and a more seamless national economy.

Mr DIMOPOULOS — That is excellent, thank you — good information. Just one more question on that: so $136 million to Victoria from the commonwealth?

Mr COHEN — That is right.

Mr DIMOPOULOS — Could you quantify roughly what the department or the Victorian government had to invest to make that happen?

Mr COHEN — We receive $6 million to cover our costs in playing our part at the department of justice across five specific reforms.

Mr DIMOPOULOS — So separate to the $136 million?

Mr COHEN — Of the $136 million, $24 million was what I would call seed funding to get the job done, of which $6 million was allocated.

Mr DIMOPOULOS — My point is: separate to the commonwealth funding, what did the state government have to put in the NPA for the national seamless economy.

Mr COHEN — There was nothing specified in the agreement itself.

Mr DIMOPOULOS — So it was actually genuinely a nice gift.

Mr SPEAGLE — To do a lot of work!

Mr COHEN — A gift might not be quite the right sort of statement.

Mr DIMOPOULOS — Sorry, that is my choice of words. But I am sure not all NPAs work with leaving the department or the government with a lower cost structure, let alone of course the actual beneficiaries being the economy, business and consumers, but that is a good example of one that has, so thanks.

Mr D. O'BRIEN — I guess my question follows on from that. In respect of the NPA on legal assistance services that goes back to 2008, what were the arrangements before that? Was there an IGA? Was it just a budgetary appropriation?

Ms De CICCO — It was direct grants.

Mr D. O'BRIEN — Direct grants. But it is still direct grants to the CLCs, as I understand it — a combination of a whole lot of things.

Ms De CICCO — The national partnership agreement was intended to supplant the delivery of direct grants from the commonwealth to CLCs. It was intended to then stop that process occurring.

Mr D. O'BRIEN — It gives it more certainty in theory?

Ms De CICCO — Give more certainty and, as per the principles that were articulated, to try to bring some greater governance around it so that it could actually be underpinned by principles of efficiency et cetera, as Greg has mentioned as are articulated in the IGA on FFR. But with this particular national partnership, as with the previous one, we are still getting direct commonwealth grants to specific CLCs for specific purposes as has recently been announced with the —

Mr WILSON — Family violence funding.

Ms De CICCO — package.

Mr D. O'BRIEN — Just to confirm, prior to 2008, the commonwealth always was providing funding of some description to legal assistance services.

Ms De CICCO — It was, and the history goes back — it is a bit potted — to about 1996–97 wherein they returned to providing some broader funding for legal assistance, but in the past the commonwealth has also undertaken direct funding for just the commonwealth services.

Mr D. O'BRIEN — Elements of it, yes.

Ms De CICCO — So it has moved over time in terms of the nature of their funding, but prior to these two national partnership agreements it had been direct funding to CLCs.

Ms PENNICUIK — Thank you for coming today to elucidate on the information that we have before us. I just want to start by saying I was interested in your comments about the delivery of these services via an NPA rather than via specific purpose payments, which we have discussed with other departments too, particularly when it is not like a new initiative that is trying to be trialled and got off the ground. As we have just been talking about in your previous question, it is something that has been going on for ages and it is going to go on for ages. With the Productivity Commission saying that we are going to need at least $200 million per year, clearly if we have got more people in the community requiring the services — just more people — to see the actual amount going down, particularly to CLCs, is pretty concerning.

I was just interested in the whole-of-government submission, where on page 32 it says:

> The Victorian government is now accountable for administering commonwealth funding to VLA and CLCs and determining the methodology for the distribution to CLCs. The new agreement requires the state to undertake collaborative service planning; facilitate surveys of clients; monitoring and assess the delivery of legal assistance services — —

The CHAIR — Sorry, Ms Pennicuik. I think the team is trying to find whereabouts you are referring to.

Ms PENNICUIK — Page 32, whole-of-government submission. It is the second paragraph.

> The Victorian government is now accountable for administering commonwealth funding to VLA and CLCs and determining the methodology for the distribution to CLCs. The new agreement requires the state to undertake collaborative service planning; facilitate surveys of clients; monitoring and assess the delivery of legal assistance services; as well as report to the commonwealth on the delivery of legal assistance services vis-a-vis performance targets.

The first part of my question is to comment on what actually does that mean that the Victorian government is doing there as opposed to the reporting requirements that are on, for example, CLCs and legal aid every six months, with the sword of Damocles hanging over their heads. What is the role of the state government or department vis-a-vis the actual on-the-ground recipients with regard to legal aid and CLCs?

Ms De CICCO — Previously under the prior national partnership agreement the requirement was slightly different as well. There were not the requirements for things like jurisdictional planning et cetera which now appear in this current NPA which did not appear in the previous one, and the reporting requirements are a bit more articulated and there are of course benchmarks, as you would know, with respect to the achievement of certain benchmarks to actually achieve funding.

That role is now the state government's role, and, for example, it will be proposed that I will chair a jurisdictional planning forum. That jurisdictional planning forum will have to have the legal aid commission and the community legal centres as well as the Indigenous legal service providers, which are not part of this particular NPA. They continue to be funded directly by the commonwealth with individual agreements with those Indigenous legal service providers, but nonetheless they will be required to be part of the jurisdictional planning. So we will need to undertake all of that and to ensure that we fulfil those requirements, but that will have to be done in collaboration with the CLCs, the VLA and now the Indigenous legal service providers as well.

Ms PENNICUIK — So does that mean the CLCs are not reporting directly — they are reporting to the government and the government is reporting?

Ms De CICCO — Yes.

Ms PENNICUIK — Excuse me, Chair, if I could just ask a follow-up. Somewhere else in here I read that it was a view that it would be a negligible possibility that those six-monthly targets might not be reached, but I think they are a concerning part of the whole thing, particularly if we are going out to 2020 and we are sort of locked into this falling amount of money and 30 per cent coming out of the CLCs in the next couple of years. I would like some comments or ideas about how negligible you think that is, because I think it is a concern for the public that this could happen.

Ms De CICCO — We have been having continuing discussions with the commonwealth around those benchmarks. In part the uncertainty has been created, particularly in the community legal centre sector, because of the lack of specific definition in the agreement itself as to things like what would be the proxy, because we know we cannot actually benchmark it for disadvantage, so the proxy is likely to be income per annum, for example. Now that causes particular concern for the community legal centres, and some members may or may not be aware but community legal centres will potentially take a client on who, at a particular point in the service requirement, may be entirely impecunious and then at some point later on in the piece may obtain or secure some income. So how does one measure? Financial income per annum is a very blunt instrument in and of itself to measure disadvantage. I think that is feeding into the concern.

The commonwealth has assured us that the benchmarks are at a level that every state has met in the past under the prior reporting arrangements, so they have assured us that they are confident that that will be met and met reasonably easily by most states.

Mr WILSON — I think there were some adjustments downwards, were there not, on the requirements on the CLCs?

Ms De CICCO — Yes.

Mr WILSON — From 95 per cent to 85 per cent in recognition of that, so I guess the signals you get suggest that there is a bit of tolerance there for where we are at the moment and so on, so we can go by.

Ms PENNICUIK — It seems to be a bit of a mystery about what benchmarks you have to meet.

Mr WILSON — Yes. I mean there is a time line here of reporting arrangements and milestones that seems to suggest that we have got a bit of time to get things more organised than they seem to be. I do not know if 'ramping up' is the right description, but as each year goes by they would expect more things to be put in place around reporting and so on.

Mr DIMOPOULOS — Across the four NPAs that you have got, I suppose it is the flipside of what could be considered burdensome reporting, has any of that precipitated data collection helped the Victorian government or the Department of Justice and Regulation in an area you have had limited or no data — it is an important question but — —

Mr WILSON — It is a good point, because the flipside of the burden is the benefits of data collection, tighter accountability, measurement of outputs and so on. Certainly emergency management is a new system, so you are measuring how many warnings went out and there is data around that. I am not sure, Marisa, in terms of the legal assistance NPA whether there is anything new or whether it is data that was collected already and it is just a new governance framework over the top of it.

Ms De CICCO — With the uncertainties over the future of the information system that underpins all that data collection, we are not certain if we can endure with the same platform or indeed collecting the same information.

Mr DIMOPOULOS — So you could have less?

Ms De CICCO — We are hoping not, but it will be a wait and see.

Ms PENNICUIK — Just quickly on the native title partnership agreement, the one that has basically been finished, in the notes it is just that the government is entering into negotiations for future ones. Could you just give us a quick update on that, because we have not really talked about that much?

Mr WILSON — I know the Taungurung, Donald, is coming up, but are you across the ones that are coming up in the future?

Mr SPEAGLE — Sure, so may I clarify — is your question about state negotiations with traditional owner groups or is it about the state negotiations with the commonwealth?

Ms PENNICUIK — No, with the commonwealth — the funding to enter into future agreements. You have entered into negotiations with the Taungurung people, but somewhere it is said that there were future agreements with other groups.

Mr WILSON — And would we take that up with the commonwealth?

Ms PENNICUIK — Yes.

Mr SPEAGLE — So we anticipate, according to advice from Native Title Services Victoria, which is the native title services provider to the traditional owner groups, that there will be a pipeline of agreements over the next few years as new traditional owner groups seek to negotiate a settlement with the state under the Traditional Owner Settlement Act. It is for that reason that we have approached the commonwealth and said, 'The NPA expired at the end of June this year. We desire commonwealth financial contributions to future settlements that we anticipate. We would like to enter into either a new bilateral NPA of the kind that expired in June or some alternative arrangement that would meet the same objective', and that negotiation is ongoing.

The CHAIR — I would like to thank the witnesses for their time. Thank you, Mr Wilson, Ms De Cicco, Mr Speagle and Mr Cohen.

Witnesses withdrew.