

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

WRITTEN QUESTION

Ms Walker to the Minister for Children and Families:

Legal Practitioners and Law Firms

1. What was the total expenditure incurred by your Department on payments to legal practitioners and law firms in 2012/13 and 2013/14 representing both the Department and children in care?

A: Refer to Attachment A.

2. How many legal practitioners and law firms received payments from your Department in 2012/13 and 2013/14?

A: Refer to Attachment A.

3. Which legal practitioners and law firms received payments from your Department in 2012/13 and 2013/14?

A: Refer to Attachment A.

4. For each relevant legal practitioner and law firm:

- a. What was the value of each payment made?

A: Refer to Attachment A.

- b. When was each payment made?

A: To itemise each account by value and by date is too resource intensive to collate due to the large number of invoices processed over the relevant time period. The Department of Children and Families (DCF) follows and adheres to standard Northern Territory Public Sector Financial Management practices when processing all invoices.

- c. Who was the legal principal submitting invoices on behalf of each law firm?

A: It is not possible to properly answer this question without individually checking each invoice received. The normal practice is for a partner of the firm to sign letters attaching invoices, however in some cases an employee or officer might be authorised to sign on behalf of the firm. During the relevant time period there were approximately 400 new matters opened, each matter would have associated with it numerous invoices, which would need to be individually inspected. Further, during the relevant time period there were approximately 400 existing matters which were worked on, which would similarly need to be individually checked for invoices.

5. Has your Department conducted any reviews, audits or investigations of payments made to legal practitioners or law firms in 2012/13 and 2013/14?

A: Yes. Throughout the relevant time period a number of reviews, audits and/or investigations of payments made to legal practitioners were conducted in conjunction with the Department of the Attorney-General and Justice who manages the contract for legal services. These were conducted in respect to firms both in Darwin and Alice Springs. Reviews varied but may have consisted of queries of single items or multiple items on particular invoices, work done on a particular matter over time, or queries in respect to a number of invoices submitted on different matters by a firm over a period time.

6. If so, which legal practitioners and firms were subject to reviews, audits or investigations in 2012/13 and 2013/14?

A: Almost all firms in Darwin or Alice Springs which have submitted invoices have been subject to query of items in their invoices in some form or another at some time. However, larger scale reviews involving examination of work done on certain matters or certain invoices were conducted in respect to the following firms: Maleys, Barristers and Solicitors (practitioner Lindy Morgan) and Povey Stirk (practitioner John Stirk).

7. Have any overpayments or anomalies been identified in relation to payments to legal practitioners or law firms in 2012/13 and 2013/14?

A: Yes, there have been overpayments and anomalies on accounts from a number of firms identified as a result of reviews as detailed in paragraph 5 above.

8. If so, would you provide details of all overpayments and anomalies identified and the legal practitioners or law firms involved?

A: DCF identified three overpayments to Maleys. Refer to Attachment B.

DCF identified approximately 16 accounts from Maleys with anomalies. These were identified before the accounts were paid. Refer to Attachment B.

Legal Services Co-ordination, within the Department of Attorney-General and Justice, queried various accounts submitted by numerous other firms on behalf of DCF. Those queries were made on unpaid invoices. It is not practical, without traversing a large amount of documentation, to provide precise details of all queries.

9. Has any recovery or remedial action been initiated to correct any overpayments or anomalies identified?

A: Yes. When queries are made with law firms, Legal Services Co-ordination requests that the invoice be rejected through the Electronic Invoice Maintenance System (EIMS) and an amended invoice is requested from the law firm. Alternatively, if an overpayment has been made and identified the firm will provide either a refund cheque or credit the next invoice with the amount of the overpayment.

10. If so, what was the dollar amount and percentage of any overpayment actually paid back to the Department of Children and Families?

A: In relation to one firm, an overpayment of \$3606.43 was recovered via credits off subsequent invoices.

In relation to various invoices from various firms, occasional administrative errors have occurred which have been rectified by an amended payment to the firm or repayment being made by the firm. Additional time will be required if further specific information is required.

11. Was legal action required to ensure repayment?

A: No.

12. What processes have been put in place to validate invoicing to the Department?

A: A Solicitor for the Northern Territory lawyer checks each individual account to ensure that the terms of the Tender Contract/Deed are complied with.

13. Was a complaint lodged with the NT law Society in relation to overcharging?

A: No.

14. What contractor performance measures are in place to oversight legal contractor performance and is this taken into account in future tender opportunities?

A: The Department of the Attorney-General and Justice facilitates the engagement of legal firms for Government departments pursuant to the Northern Territory Legal Services List (NTLSL). The NTLSL is a panel of law firms and practitioners who are pre-qualified to provide legal services to the NT Government in selected categories of law. The NTLSL was established through a public tender process on 1 October 2014. Each law firm and legal practitioner has signed a Deed which requires them to comply with terms of engagement and performance measures set by the Department of Attorney-General and Justice.

Prior to 1 October 2014 all law firms and legal practitioners provided legal services to Government under a Tender Contract (D11-0230) which contained similar terms and conditions as those imposed by the current Deed as described above.

15. Were your Department's contractual arrangements with law firms and legal practitioners in 2012/13 and 2013/14 subject to:

- a. Expressions of interest?
- b. Public tenders?
- c. Certificates of exemption?
- d. Some other arrangement?

A: Public Tender.

16. If the answer to (d) above is yes, what are the relevant arrangements?

A: Not applicable.
