

2016/17 State Budget Analysis: Justice

Analysis

In the absence of an overarching social and economic plan, the State Government remains subject to short-term funding pressures; this is particularly evident in the budget for the Department of Justice.

In a reminder that the extra funding received for some important social initiatives was short term, the new budget round reveals the cessation of some of these programs is now on the horizon. The extra funding for the Victims of Crime service through the *Family Violence Action Plan 2015-20* is an example of this. The Forward Estimates show that from 2019-20 the funding ceases, reflecting the end of the plan. Similarly, from 2018-19 funding for Community Corrective Services drops as the “Back on Track” funding ends.

The withdrawal of Australian Government funds for national partnership agreements continues to affect State Governments. In this budget the Tasmanian Government has provided funds to legal assistance services, including three of the community legal centres and Legal Aid, in response to the reduction in Australian Government funding for the provision of legal services through the National Partnership Agreement on Legal Assistance Services. In spite of this funding the CLCs still face a precarious position—with a significant cut in Commonwealth funding to take effect from 1 July 2017.

Initiatives

The Tasmanian Prison Service (TPS) has received \$1.2Million over four years to provide compulsory treatment of sex offenders. The funding is to enable the TPS to increase the programs it currently offers. The mandatory treatment of sex offenders was a Tasmanian Liberal Party pre-election commitment.

Legal Aid has received a one off payment of \$496k for Legal Aid and Community Legal Centres. The goal of the funding is to fill a gap left from the withdrawal of Commonwealth funds and enable the Legal Aid Commission and Tasmania’s three Community Legal Centres to maintain their current levels of service delivery for the time being.

In a worrying trend, the increased rate of incarceration of women has seen the need for more space at the Women’s Prison. An extra \$850k has been allocated to create 20 new beds, with funding also provided for the construction of buildings to house the new prisoners, and \$1.3Million extra for more prison officers.

The Office of the Public Guardian is also receiving more funds in response to increased demand for its services. It will receive an extra \$100k recurrent funding, and a one-off payment of \$200k to develop a new case management system.

The project to consolidate a range of tribunals and create the Civil and Administrative Tribunal has been progressed with funding of \$120k provided over the next four years.

Gaps

Since 2015 parole boards have taken into account whether or not convicted sex offenders participate in appropriate treatment while in prison. The mandatory treatment of sex offenders goes a step further to make it compulsory for sex offenders to participate in treatment. There is research that suggests that there is value in providing treatment to sex offenders but TasCOSS has significant concerns about whether coerced treatment will achieve the protection the community hopes for; people can only be encouraged to change, they cannot be mandated to change. We would argue that investment needs to be made in a whole range of approaches to reduce sexual offending, from working with young people at risk of committing sexual offences through to the provision of support and supervision to offenders who have been released from prison. This budget contains no funding for these approaches.

There is also no evidence of any funding being allocated to meet the projected increase in prison numbers which will follow the abolition of suspended sentences, or of funding for the programs that will be required to replace them should the government decide to proceed in its determination to do so. The Sentencing Advisory Council, which was not asked to comment on whether Suspended Sentences should be removed or not, but only to provide advice on what alternatives should be set in place when the Government removed them, described a range of possible initiatives, including fines, home detention, imprisonment, Drug Treatment Orders and extended community correction orders¹. All of these are costly. The Council published a costing based on currently imposed fully—and partly—suspended sentences that would result in a prison sentence (and its length), a Drug Treatment Order (and its length) a Community Correction Order (either on its own or combined with a prison sentence). The results of the modelling suggested that removing suspended sentences would require investment an extra \$11 to \$35Million per annum².

The extra funding for legal assistance services (to address the loss of Commonwealth funding) is a one off. These services are still under threat, and may be forced to dramatically reduce services from 2017-18. The funding also doesn't address the loss of funds to the Environmental Defenders Office (EDO). This office may be forced to close as a result of these cuts from the Commonwealth. The EDO plays an important role in advising the community on environmental and planning decisions.

¹ Sentencing Advisory Council 2016, Phasing Out Suspended Sentences: Final Report No. 6, <http://www.sentencingcouncil.tas.gov.au/__data/assets/pdf_file/0015/342321/Phasing_out_Suspended_Sentences_report_final_for_Web2.pdf>

² Walker, J & Bartels, L 2015, *Exploring the Costs of Alternatives to Suspended Sentences in Tasmania*, a report prepared for the Sentencing Advisory Council Tasmania. <<http://www.sentencingcouncil.tas.gov.au/>>