

The South Australian Law Reform Institute

ANNUAL REPORT

1 January 2020 – 31 December 2020

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Government of South Australia
Attorney-General's Department



THE LAW SOCIETY
OF SOUTH AUSTRALIA

Table of Contents

1. About the South Australian Law Reform Institute	
1.1 Functions and Objectives	2
1.2 Staff	2
1.3 Advisory Board	2
2. Funding	
2.1 New Research Funding	3
2.2 Ongoing and Residual Research Funding	4
2.3 In-kind Contributions	5
3. Current Law Reform projects	
3.1 The common law forfeiture rule	7
3.2 Powers of Attorney	7
3.3 Communication Partners	8
3.4 Witness Competence	9
4. Other law reform projects	
4.1 Juries, Social Media and Suppression Orders	9
5. Addresses, presentations, consultations and media	9
6. Progress of recommendations from Institute Reports	
6.1 Surrogacy – Law reform related Legislation	11
6.2 Abortion – Law reform related Legislation	11
6.3 Provocation (part of wider LGBTIQ reference) – Bill drafted	11
7. References to the Institute’s Reports in <i>Hansard</i>	11

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South Australian Law Reform Institute

2020 Annual Report

This Annual Report covers the period from 1 January 2020 to 31 December 2020 ('the Reporting Period'). While the major developments of Covid-19 hampered activities on a national and international scale, the South Australian Law Reform Institute ('the Institute') was able to continue most of its research and consultation activities, albeit with some delays, while navigating South Australia's travel and other restrictions.

1. About the South Australian Law Reform Institute

The Institute was established in December 2010 by a Memorandum of Understanding ('MoU') between the Attorney-General of South Australia, the Vice Chancellor and President of the University of Adelaide and the President of the Law Society of South Australia and is based at the University of Adelaide Law School.

The Institute is an independent non-partisan law reform body whose objectives include identifying law reform options that would modernise the law, fix any problems in the law, consolidate areas of overlapping law, remove unnecessary laws, or, where desirable, bring South Australian law into line with the law of other States and Territories. The Institute is, however, not an advocacy body.

Inquiries or references are conducted by the Institute into various areas of the law, the subjects of which are determined by the Institute's expert Advisory Board and at the request of other parties such as the South Australian Attorney-General or the Law Society of South Australia. The Institute can also undertake self-referred projects.

Extensive multidisciplinary research is conducted and similar law, practice and operation in other jurisdictions (both in Australia and overseas) is examined, along with wide and inclusive consultation with interested parties, experts and the community. The Institute is especially committed to consultation with regional and Aboriginal communities. Based on the work and research undertaken during a reference, the Institute makes reasoned recommendations to the Attorney-General or elsewhere, so that the Government and South Australian Parliament can make informed decisions about any appropriate changes to the law. The Institute's recommendations do not necessarily become law. Rather, any decision on accepting and implementing its recommendations is entirely for the Government and South Australian Parliament.

The Institute marked its tenth anniversary in December 2020. However, owing to the ongoing response to Covid-19, a suitable event to mark the occasion was postponed until a more suitable time. It is hoped that a suitable event will be held in 2021.

Further Information about the Institute, including copies of all published Papers and Reports, is located on the Institute's website at: <https://law.adelaide.edu.au/research/south-australian-law-reform-institute>.

1.1 Functions and objectives

As noted in the MoU, the functions and objectives of the Institute are:

- To conduct reviews and/or research on areas of law and legal policy specified by the Advisory Board;
- To conduct these reviews and/or research, where appropriate on a consultancy basis;
- To conduct reviews and research on proposals from the Attorney-General with a view to:
 - the modernisation of the law;
 - the elimination of defects in the law;
 - the consolidation of any laws;
 - the repeal of laws that are obsolete or unnecessary; and
 - uniformity between laws of other States and the Commonwealth.
- To provide reports to the Attorney-General or other authorities on the outcomes of reviews and/or research and to make recommendations based on those outcomes;
- To work with law reform agencies in other states and territories on proposals for reform of the laws in any other jurisdiction or within the Commonwealth; and
- To recommend to Government on the basis of detailed and impartial research.

The functions, objectives and operations of the Institute remained unchanged during 2020.

1.2 Staff

<i>Director</i>	Professor John Williams Acting Provost, University of Adelaide Executive Dean, Faculty of the Professions, University of Adelaide Dame Roma Mitchell Chair of Law
<i>Deputy Director</i>	Dr David Plater Senior Lecturer, Adelaide Law School (0.9 FTE)
<i>Administrative Officer</i>	Ms Louise Scarman (0.5 FTE)

1.3 Advisory Board

Governance of the Institute includes an expert Advisory Board comprised of Members appointed as nominees for a number of representative parties and the Institute is grateful for the valuable contribution of all Advisory Board Members,

During 2020, the three year appointment term expired for several Members, each of whom were re-appointed by their respective nominees for a further term and, as such, the composition of the Institute's Advisory Board remained unchanged from the previous year.

Membership of the Advisory Board in 2020 was as follows:

- Professor John Williams (Chair);
- The Honourable David Bleby QC, nominee of the Vice Chancellor and President of the University of Adelaide (reappointed in March 2020 for a further term);
- The Honourable Justice Tim Stanley, nominee of the Chief Justice of South Australia (re-appointed in March 2020 for a further term);

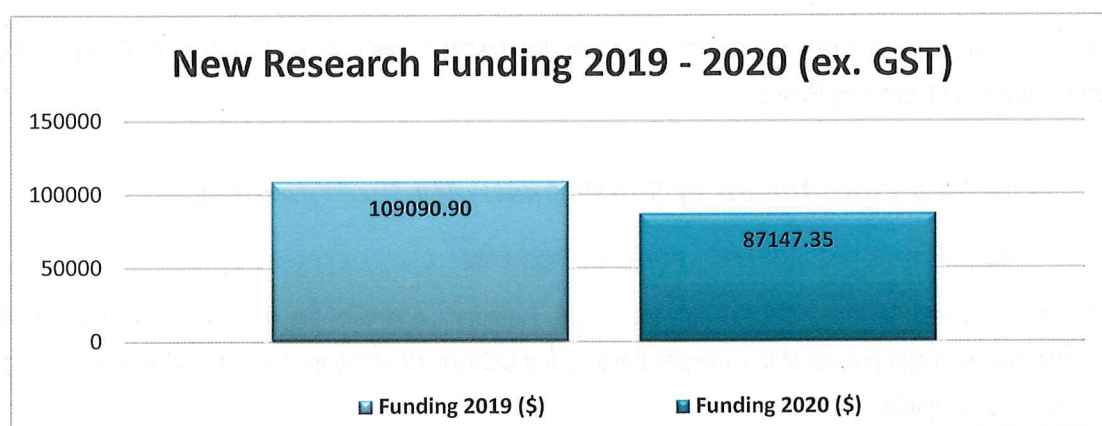
- Professor Melissa de Zwart, nominee of the Dean of the Adelaide Law School (re-appointed in February 2020 for a further term);
- Mr Dini Soulio, nominee of the Attorney-General of South Australia (re-appointed in February 2020 for a further term);
- Mr Terry Evans, nominee of the Law Society of South Australia (re-appointed in March 2020 for a further term);
- Mr Stephen McDonald, nominee of the South Australian Bar Association (re-appointed in March 2020 for a further term);
- Ms Aimee Travers, jointly appointed additional member.

In accordance with terms of the MoU which require a minimum of three meetings per year, the Institute's Advisory Board met on 18 February 2020, 1 July 2020 (electronic update) and 30 November 2020.

2. Funding

2.1 New Research Funding

During the Reporting Period, the Institute secured new research funding totalling \$87,147.35. This represents a reduction of 20.12% on new research funding (from 109,090.90) received in 2019.



Details regarding new research funding which the Institute received during the Reporting Period are as follows:

A. *The Law Foundation of South Australia Incorporated*

i. *Communication Partners project*

In October 2020, due to a number of staffing and other changes, the Institute assumed conduct of an existing research project (originally unrelated to the Institute's work) funded by a grant from the Law Foundation of South Australia Inc in 2016¹ to deliver a multidisciplinary study² into the role and impact of communication assistance for witnesses with complex communication needs under the *Statutes Amendment (Vulnerable Witness) Act 2015* (SA).

¹ Total project funding was \$93,634.08.

² The Project Team initially included participants from the Adelaide Law School, the School of Public Health and the School of Psychology at the University of Adelaide, as well as staff from the Attorney-General's Department and the Department for Communities and Social Inclusion.

With many of the assumptions in the original grant never coming to fruition (primarily based on the very limited uptake of the communication partner scheme) and the departure of the project's original Chief Investigator, it became necessary for the remaining participants to re-assess how to most effectively progress and complete the project and the Institute's Deputy Director, Dr David Plater, inherited the role of Chief Investigator.

In light of the Institute's role and expertise, and linked law reform projects such as witness competence, it was proposed that this project be progressed as an Institute reference. With support from the Institute's Advisory Board and agreement from the remaining participants, the Institute wrote to the Law Foundation in June 2020, proposing to assume conduct of the project with a revised research focus and methodology, including a revised South Australia specific study³ and a separate wider empirical research study⁴ to be undertaken on the Institute's behalf by the Centre for Investigative Interviewing at Griffith University. The Law Foundation agreed to the proposed strategy in October 2020, at which point the Institute took control of the remaining project budget⁵ and revised project activities.

The Institute undertook to complete this project and deliver its Report to the Law Foundation and South Australian Attorney-General on or before 30 September 2021.

While this is essentially a continuing project, it is a new project for the Institute, and as such, the funding of which the Institute now has carriage, is also considered as 'new' research funding for the purposes of this report.

2.2 Ongoing and Residual Research Funding

As a result of ongoing and residual research funding, the Institute was able to undertake work on the following projects during the Reporting Period:

A. The Law Foundation of South Australia Incorporated

i. Powers of Attorney project (ongoing)

Funds were received for this project in July 2019. The Institute's review of the role and operation of Powers of Attorney proved a major project which, despite the ongoing COVID -19 situation, was able to be actively progressed and effectively completed in 2020.

During the Reporting Period, the Institute was able to engage a number of casual researchers for background research and report drafting, extensive consultation was undertaken, including regional trips to Port Pirie and Port Augusta, and Institute staff were able to conduct and attend various community and professional events on capacity and consent and other succession related issues to assist their understanding. The project was completed in December 2020 and the Report is due to be released in early 2021.

The Institute wishes to express its thanks to Dr Sylvia Villios who was the lead author on this project, along with the substantial contributions of the other co-authors, Dr David Plater, Dr Gabrielle Golding, Olga Pandos, Anita Brunacci, Natalie Ayoub, Holly Nicholls and Associate Professor Bernadette Richards. The Institute also notes the

³ This study will take the form of 12-15 interviews with representative key practitioners and interested parties such as lawyers, police, CPs and service providers as to their impression and experiences of the South Australian CP role (including potential reasons why the South Australian CP model was not taken up as expected and intended).

⁴ This will include South Australian subjects to examine the completeness, accuracy and coherence of the evidence that intermediaries/CPs facilitate to inform best practice suggestions as to how a CP or intermediary model should best operate.

⁵ The available balance in the project as at 1 July 2020 was \$87,147.35.

helpful input of Dr Mark Giancaspro and the Hon Geoff Muecke and thanks all parties who contributed to this project.

B. Residual Tied Funds

The Attorney-General's Department has permitted the Institute to keep and re-purpose residual funds from previous Institute projects funded by the Attorney-General's Department towards other projects which support the Attorney-General's priorities.

In 2020, these residual funds allowed the Institute to engage casual researchers to assist with additional work resulting from past Institute Reports (such as briefing MPs) as well as assisting with research and drafting to progress projects on the Common Law Forfeiture Rule, Witness Competence and Social Media and Juries. Institute staff also attended a Competence workshop and travelled to Tasmania to meet with the Tasmania Law Reform Institute and colleagues at the University of Tasmania on collaborative law reform and research projects.

2.3 In-kind contributions

Funding via in-kind contributions were attributed from the following sources during 2020:

A. The University of Adelaide

In accordance with the Institute's MoU, the University of Adelaide paid the salaries of the Director, Professor John Williams and Deputy Director, Dr David Plater. Both Professor Williams and Dr Plater have significant University roles and commitments beyond the Institute.

Dr Plater continued to be employed @ 0.9 FTE to conduct the work of the Institute, acting as its principal researcher and writer, and coordinated and delivered the Adelaide Law School's full-year elective subject of Law Reform.

During the Reporting Period, the University continued to:

- provide accommodation, facilities and on-going technical support in the running of the Institute; and
- provide expert support for the Institute's communications with the media, when required.

B. South Australian Attorney-General's Department

i. Funding of Administrative Officer position

Under the MoU, the South Australian Attorney-General's Department (AGD) is responsible for funding of the Administrative Officer position (equivalent to ASO Level 3 @ 0.5 FTE) by tied grant to the University of Adelaide. The University invoices the AGD twice yearly under this arrangement.

C. Law Society of South Australia

As a co-founder, the Law Society of South Australia continued to support the work of the Institute in 2020 by permitting Institute staff and researchers to attend relevant seminars and continuing legal education sessions relevant to the Institute's work at either reduced rates or without charge.

D. Law Reform Elective Course, Student Research and Guest Speakers

An important source of additional research assistance for the Institute comes in the form of student participation from the linked Law Reform course at the Adelaide Law School. This is a by-invitation only elective for a limited number of final-year students and involves high level research and analysis, under the supervision of the Course

Co-ordinator, of an area of the law (often on aspects of the Institute's current or potential future projects) within its comparative, policy and legal dimensions. Students are encouraged to make reasoned findings and conclusions based on their research, which can play a valuable role to inform and support the Institute's work, especially as background research for a Report and if the opportunity arises, former students can, on occasion, be hired as paid research assistants to assist with projects.

In 2020, the Law Reform elective course was undertaken by twenty-four students. The course was taught and co-ordinated by Dr Sylvia Villios in Semester 1 and by Dr David Plater in Semester 2.

Student research topics included several of the Institute's current and forthcoming projects, including:

- Social media, modern juries and the right to a fair trial.
- The role and operation of powers of attorney and remedies to address abuse.
- Capacity to make a Power of Attorney.
- Witness competence to testify.
- Vulnerable parties in the justice system.
- Intermediaries or Communication Partners to assist vulnerable parties.
- The definitions of rape and consent and issues arising.
- Gender fraud and consent in sexual offences.
- Police powers of electronic investigation, notably for online child sexual abuse.
- Gay conversion 'therapy'.
- Judicial retirement age.
- Prosecution disclosure of digital records held by victims.
- Microboards to support persons with disability.
- Recognition of Aboriginal kinship in Australian succession laws.

The course benefits from an impressive range of guest speakers from Government, politics, the community and legal practice who discuss various aspects of the law reform process and context. Guest speakers in 2020 included the Hon Vickie Chapman MP (the present Attorney-General), the Hon John Rau SC (former Attorney-General), Mr Robert Lawson RFD QC (past Attorney-General), the Hon Justice Chris Bleby (Court of Appeal), the Hon Geoffrey Muecke (former Chief Judge of the District Court of South Australia and regular contributor to the course), Taylor Johanson (Aboriginal Legal Rights Movement), a leading elder from the Aboriginal community, Ms Skye Kakoschke-Moore (former Senator and now policy officer at Purple Orange), representatives of the Attorney-General's Department, Crown Solicitor's Office and Office of Parliamentary Counsel, as well as a number of former law reform students now in practice. The Institute thanks all guest speakers for their insight and candour.



Guest speaker, the Hon Justice Chris Bleby, with the 2020 Law Reform class



Guest speaker, Ms Skye Kakoschke-Moore, with the 2020 Law Reform class

E. Advisory Board

The Institute is grateful for the valuable input and support of members of the Advisory Board who generously contribute their expertise and time without charge.

3. Current law reform projects

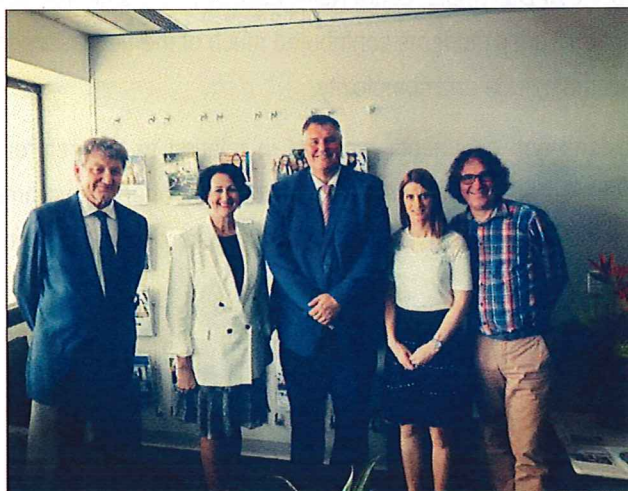
Following is a summary of the law reform project work undertaken by the Institute during the Reporting Period.

All publications released by the Institute (for both current and past projects) are available to download free of charge from the Institute's website: <http://www.law.adelaide.edu.au/research/south-australian-law-reform-institute/> under 'Projects'.

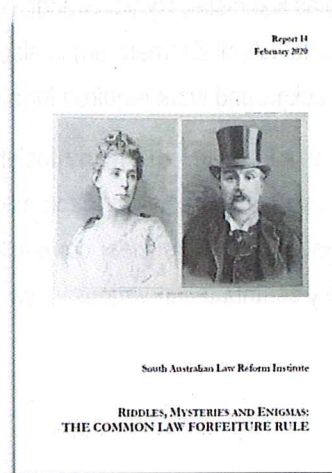
3.1 The common law forfeiture rule

The Institute is grateful to Dr Sylvia Villios for her commitment to assisting the completion of this review during 2019. The Report, *Report 14 – Riddles, Mysteries and Enigmas: The Common Law Forfeiture Rule*, was completed in early 2020 and was publicly released on 14 March 2020.

The co-authors of this Report included Emily Ireland (Adelaide PhD student) and Olivia Jay, a former Law Reform student.



Forfeiture Rule Consultation Roundtable (L to R): The Hon Tom Gray QC (Chair), The Hon Vickie Chapman MP (SA Attorney-General), Professor John Williams, Dr Sylvia Villios and Dr David Plater



Front cover of *Report 14 – Riddles, Mysteries and Enigmas: The Common Law Forfeiture Rule*

3.2 Powers of Attorney

As noted in the Institute's 2019 Annual Report, the Institute decided to undertake a self-referred project⁶ to examine the role and operation of enduring powers of attorney (EPAs) in South Australia, following a number of concerns expressed to the Institute about the role and operation of the *Powers of Attorney and Agency Act 1984* (SA) (POA

⁶ Ibid Recommendation 29.

Act) and the financial exploitation of older South Australians⁷ as part of its previous reference into family provision laws (part of the Institute's wider succession law reference). These concerns have been widely voiced elsewhere.

Suitable funding was obtained in September 2019 from the Law Foundation of South Australia Inc and work which commenced during late 2019 was, despite Covid-19 restrictions, able to continue throughout 2020. The Institute engaged Ms Anita Brunacci, Ms Olga Pandos, Ms Holly Nicholls and Ms Natalie Ayoub to undertake background research, engage in consultation activities and assist with report drafting.

While initially postponed due to travel restrictions as a result of Covid-19, Institute staff were eventually able to host regional consultation sessions in Berri,⁸ Port Lincoln,⁹ Clare and Port Pirie¹⁰ and Mount Gambier¹¹ as well as a number of consultation sessions in Adelaide¹².

The Institute would particularly like to note the valuable contribution to the consultation, research and writing of this Report by Dr Sylvia Villios (lead author), Dr Gabrielle Golding, Olga Pandos, Anita Brunacci, Natalie Ayoub, Holly Nicholls and Associate Professor Bernadette Richards. The input of Dr Mark Giancaspro, Olivia Jay and Members of the Institute's expert Advisory Board are also acknowledged. The Institute notes its particular appreciation to Dr Chris Moy of the Australian Medical Association (SA) for his insightful contribution to consultation and the support of the Law Foundation of South Australia Inc. in providing the funding for the Institute to undertake this important reference.

The valuable input of students from the Law Reform class at the University of Adelaide (especially Lauren Bagshaw, Nicholas Bannister, Rynier Brandt, Hayley Crumb, Peter Dalrymple, Laura Kelly, Lukas Price, Esther Richards, Eva Squire and April Zimmerman) is also acknowledged. These students contributed much of the necessary research and background work required for a Report of this magnitude and complexity.

The Institute notes the many insightful submissions and comments received in relation to this reference and expresses its appreciation to the many legal practitioners, medical and other health practitioners, government and non-government agencies, community groups, interested parties, experts and members of the community who actively contributed in various ways to this reference.



Front cover of Report 15 – *Valuable Instrument or the Single Most Abused Legal Document in our Judicial System? A Review of the Role and Operation of Enduring Powers of Attorney in South Australia*

⁷ South Australian Law Reform Institute, *Distinguishing between the Deserving and Undeserving: Family Provision Laws in South Australia*, Final Report 9 (2017).

⁸ 7 August 2020.

⁹ 14 August 2020.

¹⁰ 17 and 18 August 2020.

¹¹ 17 and 18 September 2020.

¹² 12 and 13 August 2020.

The Powers of Attorney Report, *Valuable Instrument or the Single Most Abused Legal Document in our Judicial System? A Review of the Role and Operation of Enduring Powers of Attorney in South Australia*, was completed in December 2020 and is planned to be publicly released early in 2021.

The Institute's Report concludes that, whilst it is important to prevent and address misuse and fraud, it is also important to respect the autonomy of principals to make such instruments, retain the utility and effectiveness of EPAs, and to promote their use. This Report makes a total of 120 recommendations for changes to law and practice to clarify and improve the use and operation of EPAs in South Australia.

3.3 Communication Partners

As noted above,¹³ the Institute inherited this project and commenced work as a priority, following completion of the Powers of Attorney project in late 2020. A number of consultation activities are being planned for early 2021, including a number of Adelaide consultation roundtables (with peak bodies, industry, users of communication partners and legal practitioners and police) and a regional consultation trip to Port Pirie and Port Augusta. The input of regional and Aboriginal communities is crucial. Due to a number of extensions received from the Law Foundation of South Australia Inc prior to the Institute's involvement, this project must be completed by 30 September 2021.

3.4 Witness Competence

This reference was received from the Attorney-General, the Hon Vickie Chapman MP, on 19 November 2018, inviting the Institute to inquire into, and report on, the utility of competence testing and the distinction between sworn and unsworn evidence, pursuant to section 9 of the *Evidence Act 1929* (SA).

There are wide concerns over the role and operation of the present law and it has particular application for children and persons with intellectual disability. This issue was also raised by the Royal Commission into Institutional Responses to Child Sexual Abuse.

A workshop with experts and interested parties was held at Adelaide University in February 2020 that, amongst other items, discussed witness competence. The Institute thanks the particular input of Professor Jon Doak from England and Dr Robyn Blewer from Queensland. A Fact Sheet was prepared in preparation for consultation to commence during mid-2020. Unfortunately, progression of this work was overtaken by the COVID -19 situation and references requiring more immediate attention¹⁴, however, the Institute plans to re-commence this project as soon as practicable, which is likely to be in late 2021 after the completion of the linked Communication Partner reference.

4. Other law reform projects

4.1 Juries, Social Media and Suppression Orders

As reported in the 2019 Annual Report, the Institute planned to prepare a report specific to South Australia with the input of Ms Jemma Holt and the Hon Geoff Muecke during 2020 using collaborative research and materials from

¹³ See Part 2.1 - New Research Funding, on page 3.

¹⁴ Notably, the Abortion reference during 2019, the Powers of Attorney reference during 2019 - 2020 and the Communication Partners reference during late 2020 and likely, a substantial portion of 2021.

its work with the Tasmania Law Reform Institute, with a focus on the impact of the internet and social media and the role and effectiveness of judicial directions and suppression orders.

The Institute submitted a grant application to the Law Foundation of South Australia Inc in its March 2020 grant round to assist with funding this project, but the application was unsuccessful. Without suitable funding, this project has stalled and remains incomplete.

5. Addresses, presentations, consultations and media

During the Reporting Period, Institute staff and researchers were active in community and industry engagement and undertook the following addresses, presentations, consultations and media interviews:

11-Feb-2020	Co-host research workshop on disability justice and competence, University of Adelaide.
13-Feb-2020	Professor John William discussed the Institute's proposed amendments to abortion law reform, <i>InDaily</i> .
4-Mar-2020	Dr David Plater attended Australian Institute of Criminology (AIC) Child Exploitation Material (CEM) Reduction Project Workshop (via Zoom), University of the Sunshine Coast, QLD.
13-May-2020	Dr D. Plater Presentation (via Zoom) to Evidence class at University of Tasmania on Role and work of the Institute, witness competence and vulnerable witnesses and defendants.
10-Jun-2020	Dr Sylvia Villios and Dr David Plater discussed the Institute's review of Powers of Attorney laws, <i>InDaily</i> .
15-Jun-2020	Dr Sylvia Villios discussed the Institute's review of Powers of Attorney laws and regional consultation, <i>ABC South East</i> .
16-Jun-2020	Dr Sylvia Villios discussed the Institute's review of Powers of Attorney laws and regional consultation, <i>ABC Radio Adelaide</i> .
9-Jul-2020	Dr Sylvia Villios and Dr David Plater discussed the Institute's review of Powers of Attorney laws, University of Adelaide, Research News.
7-Aug-2020	Roundtable consultation forums on review of Powers of Attorney laws with legal, medical and health practitioners in Berri.
12-Aug-2020	Roundtable consultation forums (x 2) on review of Powers of Attorney laws with legal practitioners in Adelaide.
13-Aug-2020	Roundtable consultation forum on review of Powers of Attorney laws with legal practitioners in Adelaide.
13-Aug-2020	Roundtable consultation forums on review of Powers of Attorney laws with medical and health practitioners in Adelaide.
14-Aug-2020	Roundtable consultation forums on review of Powers of Attorney laws with legal, medical and health practitioners in Port Lincoln.
17-Aug-2020	Roundtable consultation forums on review of Powers of Attorney laws with legal, medical and health practitioners in Clare.
17-Aug-2020	Dr Sylvia Villios, Dr David Plater and Dr Mark Giancaspro discussed the Institute's review of Powers of Attorney laws and regional consultation in Port Pirie, <i>Spencer Gulf Nightly News</i> .
18-Aug-2020	Roundtable consultation forums on review of Powers of Attorney laws with legal, medical and health practitioners in Port Pirie.

20-Aug-2020	Roundtable consultation forums on review of Powers of Attorney laws with Industry representatives in Adelaide.
26-Aug-2020	Roundtable consultation forums on review of Powers of Attorney laws with medical and health practitioners in Adelaide.
26-Aug-2020	Roundtable consultation forums on review of Powers of Attorney laws with community representatives in Adelaide.
31-Aug-2020	Dr Sylvia Villios and Dr Gabrielle Golding, Interview with Clementina Maione on Powers of Attorney, <i>Radio Italiana 931</i> .
7-Sep-2020	Dr Sylvia Villios, Interview with Selina Green on Powers of Attorney consultation in Mount Gambier, <i>ABC South East SA</i> .
8-Sep-2020	Dr Sylvia Villios, Interview on Powers of Attorney consultation in Mount Gambier, <i>5GTR Community Radio</i> .
9-Sep-2020	Dr Sylvia Villios, Interview on Powers of Attorney consultation in Mount Gambier, <i>Triple M Limestone Coast 963</i> .
18-Sep-2020	Ms Olga Pandos, Powers of Attorney presentation and consultation forum on Powers of Attorney, Multicultural Communities Council of SA (MCCSA).
15-Oct-2020	Dr Sylvia Villios and Ms Anita Brunacci, Presentation on Preparing a Will and consultation forum on Powers of Attorney, South Australian Council of Social Service (SACOSS), Forgotten Australians (Helping Hands).
3-Nov-2020	Follow-up roundtable consultation forums (x 2) on review of Powers of Attorney laws with legal and health practitioners in Adelaide.

6. Progress of recommendations from Institute Reports

6.1 Surrogacy - Law reform related Legislation

Recommendations in the Institute's Surrogacy Report were almost wholly accepted by the Government and were subsequently reflected in a new Act, the *Surrogacy Act 2019*, which received Royal Assent on 7 November 2019 and came into force on 1 September 2020.

6.2 Abortion - Law reform related Legislation

Recommendations from the Institute's Abortion Report resulted in the passage of the *Health Care (Safe Access) Amendment Act 2020* which received Royal Assent and commenced operation on 17 December 2020.

6.3 Provocation (part of the wider LGBTIQ reference) – Bill drafted

The Institute's Report, *The Provoking Operation of Provocation: Stage 2*, was released on 5 June 2018 and on 9 April 2019, the Attorney-General, the Hon Vickie Chapman MP, announced that the Government intended to abolish not only the controversial 'gay panic' defence, but the wider partial defence to homicide of provocation and make significant other linked changes as suggested by the Institute.

The Attorney-General said the extensive work undertaken by the Institute had helped to underpin the Government's work in this area and indicated that a Bill would go out for consultation with interested parties and be introduced to Parliament in due course.

On 23 July 2020, the Statutes Amendment (Provocation, Self Defence and Sentencing) Bill 2020 was tabled in Parliament. A subsequent revised Bill, the Statutes Amendment (Abolition of Defence of Provocation and Related Matters) Bill 2020, was introduced on 15 October 2020 and passed by both Houses of Parliament on 2 December 2020 with all party support. The Act, as recommended by the Institute, abolishes the defences of provocation and

marital coercion and makes significant linked changes to the defences of self-defence, duress and necessity as well as sentencing for homicide and providing for expert evidence as to the dynamics and effects of domestic violence. The work of the Institute was widely acknowledged and commended in the Parliamentary debate.

7. References to the Institute's Reports in *Hansard*

During the Reporting Period, the following Institute projects and associated reports were referred to in *Hansard*:

Institute Project	<i>Hansard</i> Reference
Abortion	South Australia, <i>Parliamentary Debates</i> , Legislative Council, 20 February 2020, Hon T.A. Franks ¹⁵ .
Abortion	South Australia, <i>Parliamentary Debates</i> , Legislative Council, 13 May 2020, Hon T.A. Franks ¹⁶ .
Provocation (LGBTIQ project)	South Australia, <i>Parliamentary Debates</i> , Legislative Council, 13 May 2020, Hon T.A. Franks ¹⁷ .
Provocation (LGBTIQ project)	South Australia, <i>Parliamentary Debates</i> , Legislative Council, 3 June 2020, (Hon I.K. Hunter) ¹⁸ .
Abortion	South Australia, <i>Parliamentary Debates</i> , House of Assembly, 22 July 2020, (Ms Luethen (King)) ¹⁹ .
Provocation (LGBTIQ project)	South Australia, <i>Parliamentary Debates</i> , House of Assembly, 23 July 2020 (Hon V.A. Chapman, Deputy Premier) ²⁰ .
Abortion	South Australia, <i>Parliamentary Debates</i> , Legislative Council, 14 October 2020, Hon J.M.A. Lensink, Minister for Human Services ²¹ .
Provocation (LGBTIQ project)	South Australia, <i>Parliamentary Debates</i> , Legislative Council, 15 October 2020, Hon J.M.A. Lensink, Minister for Human Services ²² .
Abortion	South Australia, <i>Parliamentary Debates</i> , Legislative Council, 15 October 2020, Hon T.A. Franks ²³ .
Abortion	South Australia, <i>Parliamentary Debates</i> , Legislative Council, 11 November 2020, (Hon. I. Pnevmatikos) ²⁴ .
Abortion	South Australia, <i>Parliamentary Debates</i> , Legislative Council, 12 November 2020, Hon J.M.A. Lensink, Minister for Human Services ²⁵ .
Provocation (LGBTIQ project)	South Australia, <i>Parliamentary Debates</i> , Legislative Council, 17 November 2020, (Hon. M. Parnell) ²⁶ .
Abortion	South Australia, <i>Parliamentary Debates</i> , Legislative Council, 12 November 2020, (Hon I.K. Hunter) ²⁷ .
Abortion	South Australia, <i>Parliamentary Debates</i> , Legislative Council, 2 December 2020, (Hon. I. Pnevmatikos).

¹⁵ At (15:53).

¹⁶ At (15:38).

¹⁷ At (16:36).

¹⁸ At (14:35).

¹⁹ At (11:06).

²⁰ At (14:02).

²¹ At (14:46).

²² At (15:32).

²³ At (16:48).

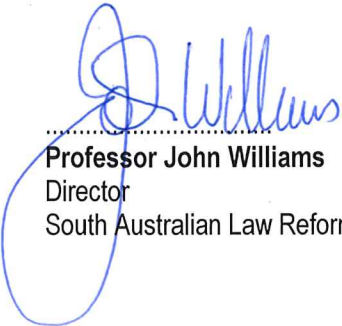
²⁴ At (17:24).

²⁵ At (16:10).

²⁶ At ((17:03).

²⁷ At 11:02).

Provocation (LGBTIQ project)	South Australia, <i>Parliamentary Debates</i> , House of Assembly, 10 November 2020 (Hon K.J. Maher, Leader of the Opposition) ²⁸ .
Provocation (LGBTIQ project)	South Australia, <i>Parliamentary Debates</i> , House of Assembly, 1 December 2020 (Hon V.A. Chapman, Attorney-General) ²⁹ .



Professor John Williams
 Director
 South Australian Law Reform Institute



 Date:

²⁸ At (17:06).

²⁹ At (17:06).