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## Statement of Intent 2008-2012

The Agency's Statement of Intent was tabled in Parliament on 17 June.

In their introductory comments, the Board Chair, Carole Durbin, and the Chief Executive, Tim Bannatyne, set out two main themes. They centre around maintaining the quality and level of service and operations while also focusing on some priority goals.

Those goals involve the need to improve the cost effectiveness of both legal aid expenditure and how the Agency operates, which is supported by building up staff capability and information systems.

Included is the rollout of the Public Defence Service (PDS) and duty solicitor reforms across greater Auckland, as announced by the Hon Simon Power, Minister of Justice. As with the original pilots, Agency lawyers will work alongside private criminal legal aid lawyers.

"We believe that the high quality and cost effective service is good for clients. It also provides an excellent training ground for young, lawyers, many of whom in due course will go on to provide services in the private sector," said Tim and Carole.

The Statement also recognises the value of community legal services and the funding issues for community law centres. Over 89% of the Agency's target population now has access to a centre or a centre outreach service. The Agency will continue to provide any such information that could assist the Minister on decisions around funding past 2009/10.

Over 60,000 people now receive new grants of legal aid each year and the Statement forecasts these levels to rise accompanied by

rises in the legal aid expenditure. The Fundamental Review of the Legal Aid System commissioned by the Minister of Justice and led by Dame Margaret Bazley is an important context for our current services, operations and developments. The Review is well and truly underway. We are aware that Dame Margaret has met with many people, including those within the Agency. It is important that the Agency assists the Review in what ever way necessary. "We expect continued change as an outcome of the Review. What will remain unchanged is our function of helping people access justice."



**Tim Bannatyne**  
CHIEF EXECUTIVE  
LEGAL SERVICES AGENCY



**Carole Durbin**  
BOARD CHAIR  
LEGAL SERVICES AGENCY

## Auckland Criminal Legal Services expansion

The Government has announced the expansion of the Agency's Public Defence Service (PDS) and duty solicitor reforms across all courts in the Auckland region – the Auckland, Manukau, Waitakere, North Shore, Pukekohe and Papakura courts.

The expansion will involve establishing new PDS services at Waitakere and North Shore and extending the Manukau PDS to cover the Papakura and Pukekohe courts. It will also consolidate reforms to the administration of the Police Detention Legal Assistance (PDLA) scheme across all Police districts in the Auckland region. Duty solicitor reforms currently operating at the Auckland and Waitakere courts will be extended to the remaining four courts.

The PDS at the new courts will operate under the same parameters as the current service at Manukau and Auckland. It will undertake a maximum of one third of all criminal legal aid cases at each

court. Up to 50% of rotation cases (that is, those cases where the defendant has not nominated a preferred lawyer) may be assigned to the PDS.

The PDS will also participate on the duty solicitor roster at each of these courts. Again, participation will be limited to a maximum of one third of all duty solicitor rostered positions.

The Agency is still in the initial stages of planning for the project. So far it has been established that the first priority will be the establishment of a PDS office at Waitakere by the end of 2009. Expansion to North Shore, Pukekohe and Papakura is scheduled for the first half of next year.

There will be consultation with local lawyers and the community about the PDS caseload before a PDS service is established at each of the four new courts. We will send information to local lawyers and a wide range of other interested parties when we have

finalised details around dates, process and the order of implementation. We expect to do this in July or August this year.

Duty solicitor reforms to be extended to the remaining Auckland courts include appointing supervisors to manage the service at the court and introducing roster entry requirements aim to ensure the competency of new entrants. As part of these reforms, Agency staff will be available to assist defendants to complete legal aid application forms.

Separately, a unit is being set up within the PDS to manage the administration of reformed duty lawyer schemes and PDLA services within the one place. This is purely an administrative change, aimed at ensuring that the changes implemented are maintained and built on. The administrative roles within this unit will be advertised shortly.

The Agency will keep local lawyers and the community informed as planning progresses.

**Alison Hill**

MANAGER POLICY AND DEVELOPMENT

## Reminder – rates of payment and criminal steps are changing

The Agency recently announced two major changes for lawyers and other legal aid providers – the revision of the Agency’s criminal proceedings steps and changes to the rates of payment (rates) to legal aid lawyers and other listed providers.

The new steps will be implemented from Monday 29 June 2009, and the new rates are effective from Wednesday 1 July 2009. The new steps and rates may require legal aid lawyers and other listed providers to manage up to four sets of rates for a period of time, depending on the type of work undertaken.

The new rates and revised steps will be implemented as follows:

- work performed under legal aid schemes up to and including 28 June 2009 will require application of the old criminal steps and will be charged at the existing (old) rates
- work performed under the legal aid schemes (criminal only) between and including 29 June 2009 to 30 June 2009 will require application of the new criminal steps and will be charged at the old rates
- work performed under legal aid schemes after and including 1 July 2009 will require application of the new criminal steps (where appropriate) and may be charged at the new rates.

We suggest that to make it easier to manage the transition period you:

- bill promptly for work up to and including the 28 June 2009 under the old criminal steps and old rates
- bill promptly for work between 29 June 2009 and 30 June 2009 under the new criminal steps and old rates
- ensure that invoicing software or billing templates are changed to accommodate the new rate structure from 1 July 2009.

The new steps and rates, along with the updated Word templates, will be available on [www.lsa.govt.nz](http://www.lsa.govt.nz).

If you have any questions on implementing the new rates or the revised criminal steps, please contact your nearest Legal Aid Office for assistance.

## LSMS – new legal aid management computer system

The Agency is replacing its legal aid management computer system. The present system is derived from an Australian legal aid system, which is now being superseded. The replacement system – the Legal Services Management System (LSMS) – is being built on a modern and flexible information technology environment that can be supported in New Zealand. At this stage the Agency expects LSMS to go live in November.

**The key benefits that LSMS brings to the Agency are:**

- improved responsiveness to changes in court and legal practices
- capability to introduce more efficient processes for staff and lawyers
- a baseline system aligned to future e-business.

The new system will hold more information about the work carried out against the proceedings steps. This will enable us to provide you with up-to-date information about the case to help you prepare your claim, and enable us to process this more efficiently.

The Agency is keen to improve the efficiency of processes used by lawyers and staff. We are also aware of the impact of change on lawyers, and have set up a consultation process to manage that. We believe we can improve the claims and invoice process. The Agency has consulted with the Legal Services Committee of the New Zealand Law Society (NZLS) on a proposal. The NZLS agrees there is some merit in the concept, and wishes to provide further feedback when the process has been fully worked through. We also consulted in mid June with a group of legal aid lawyers, and received very constructive feedback and advice. We are responding to that by reviewing our initial approach and scope, and we will continue consultation when that is done.

Although some system improvements can be made during the build of the new system, a more significant extension of capability, such as electronic business between lawyers and the Agency, will be a later development stage.



We appreciate the feedback we’ve received and the willingness by the legal community to participate in the consultation process. We know that the lawyers and other legal aid providers that work with the Agency share our goals of making it easier for lawyers to work with us and for our staff to administer the legal aid schemes.

**John Worden**

LSMS PROJECT MANAGER

## Tips for lawyers

### Interests of justice

When an applicant for criminal legal aid is charged with an offence punishable by a maximum term of imprisonment of less than six months, aid will be granted only if the Agency considers that the interests of justice require that the applicant be granted legal aid.

When making this decision, the Agency must consider whether:

- the applicant has any previous conviction
- the applicant is charged with or convicted of an offence punishable by imprisonment
- there is a real likelihood that the applicant, if convicted, will be sentenced to imprisonment
- the proceedings involve a substantial question of law
- there are complex factual, legal, or evidential matters that require the determination of a court
- the applicant is able to understand the proceedings or present his or her own case, whether orally or in writing.

The Agency may also take into account any other circumstances that it considers relevant to this application.

In question 24 of the legal matters section of the Criminal Application for Aid, the applicant is asked to tick any statements that apply to them. The applicant can also provide additional information on why aid should be granted. A number of reconsideration requests are received with further information made available and in some cases that fuller explanation of the interest of justice factors may have resulted in a grant of aid when the application was first received.

#### HOT TIP:

When assisting an applicant to complete an application for criminal legal aid, please include:

- details of relevant previous convictions
- whether the applicant has previous convictions, explain why this factor is relevant, such as the consequences of a conviction for them
- why there is a real likelihood of imprisonment
- whether the applicant is unable to understand the charges or present their own case, and why.

### Interim repayment policy

The Agency has revised its interim repayment policy – an interim repayment is the amount paid to the Agency towards the cost of legal aid by a legally aided person. This is calculated before their case is finalised and their final repayment is set, and the calculation is made according to section 17 of the Legal Services Act 2000.

The revised policy clarifies that an interim repayment is a discretionary condition on a grant of aid. When determining if an interim repayment is required, the Grants Officer will take into account the amount of the repayment and any available information on the applicant's financial circumstances.

One of the key changes to this policy is that the Agency will no longer require interim repayments on grants of aid for Criminal Summary (PC1) matters, unless there are exceptional

circumstances. While an applicant may still have a repayment imposed as a condition of the grant of legal aid, they may not be required to begin repayments until their case is finalised.

The updated policy will be available online when it has been implemented.

## Agency Assurance Programme

Following on from last year's simplifications to the family legal aid granting process, the Agency has developed an Assurance Programme as the final phase of the Standard Family Granting project. The simplifications have resulted in reduced paperwork for both lawyers and the Agency.

The changes resulted in removing the approval requirement between steps within family proceedings, specifying the maximum grant as the guideline hours in each step and maintaining the policy preventing the carry over of unused hours between steps. The Agency previously monitored compliance with the family steps through a requirement for pre-approval between the steps.

The Assurance Programme provides for an Assurance Officer to check a sample of provider files to assess whether the work was done in line with the steps approved and that no change to merits occurred. The assessment will check that file documents support the steps completed and the hours granted, and has been billed within the guideline hours of the appropriate step.

The sample will give a good guide of how successful the new policy is working in practice and will identify issues that need further investigation.

The Assurance Officer is a member of the Service Contracts team, and is based at the Agency's Head Office in Wellington.

**Tony Hill**

SENIOR ADVISER SERVICE CONTRACTS

## Navigating [www.lsa.govt.nz](http://www.lsa.govt.nz) – finding information on proceedings, legal aid rates and fees, disbursements, and steps

We are currently looking at how we present on the website the information that we send to lawyers. Our aim is to keep information grouped according to the type of aid, such as criminal, family and civil, so that it is easier for you to find the information that you need. Until we can condense this better, here are some quick tips on finding online the information that we've sent to you in hard copy.

Following the simplification of the administration of legal aid for family matters and disbursements in October 2008, we created a new section in the family legal aid section on the website to include the key details – and you can get to this at [www.lsa.govt.nz/lawyers/family-legal-aid/simplifications-to-legal-aid-granting.php](http://www.lsa.govt.nz/lawyers/family-legal-aid/simplifications-to-legal-aid-granting.php).

In October 2008 and June 2009 the Agency sent lawyers information packs on family law proceedings, legal aid rates and fees, disbursements, and steps and criminal law proceedings, legal aid rates and fees, disbursements, and steps respectively. These information packs are also available as pdfs at [www.lsa.govt.nz/lawyers/index.php](http://www.lsa.govt.nz/lawyers/index.php)



