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2006 – IT'S BEEN A BIG YEAR

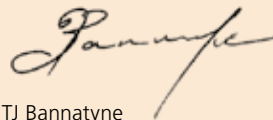
With this year coming to a close, no doubt in some way all of us will be reflecting on where we've been and where we are going. It is gratifying to think that the commitment of so many people, either directly or indirectly, helped so many other people get access to justice; and that this help benefited so many of their family and whanau as well.

2006 certainly has been one of major developments and preparing for change. We could not have progressed as far as we have this year without the support of those involved in our schemes and services, the advice and support of those who have helped with our preparations, and the commitment of our staff who have also had to meet the demands of our daily business.

Obviously the implementation of the Legal Services Amendment Act by 1 March 2007 is a big and exciting challenge for us. It is also a highlight in that it will give significantly more people the opportunity to access legal aid. This edition of Legal Services Agency news provides you with more detail of what is in store.

I look forward to the continuing goodwill and commitment of so many people – lawyers (private and our Public Defence Service), community law centres, staff involved in administering schemes and services and those that support them. My appreciation and my thanks.

Have a relaxing break; and ensure that you and those you care about are safe.



TJ Bannatyne



2006 ANNUAL REPORT



Carole Durbin

The 2005/06 Annual Report of the Legal Services Agency has been tabled in Parliament, and provides measures against the Agency's mission of 'helping people access justice.'

"The legal aid scheme helped around 56,000 people access legal services, through 65,000 grants of aid in the last year," said Carole Durbin, the chair of the Legal Services Agency Board. That is 3,000 more people than the previous year.

Of the other programmes the Agency is responsible for, Ms Durbin said, "We provided around 84,000 hours of advice and assistance for unrepresented defendants appearing in

court through the Duty Solicitor scheme. This is an increase of around 6,000 hours.

"And more than 12,500 people received legal advice and help under the Police Detention Legal Assistance scheme."

The Legal Services Agency also increased funding for community law centres by 12 percent to \$8 million to help people access legal services on issues affecting their daily lives.

Chief Executive Tim Bannatyne said, "The major event in the 2005/06 year was the passage of the Legal Services Amendment Act (2006), which comes into effect on 1 March 2007.

"The Amendment Act means more people will be eligible for legal aid and more people will have to pay back some or all of their grant. To ensure that we transition smoothly, a lot of work has been happening preparing the way for new rules, new systems, new procedures, new forms have been developed, along with training programmes for staff and private lawyers."

Carole Durbin and Tim Bannatyne said, "With 96 percent of legal aid cases being undertaken by private lawyers, we recognise that the commitment lawyers and supporting

professionals continues to be essential to the viability of the schemes and ultimately, to help people access justice."

A copy of the Legal Services Agency's Annual Report 2005/06 is available at <http://www.lsa.govt.nz/general/documents.htm>

For further information, contact Antony Byers, Senior Communications Adviser, Legal Services Agency, 04 4955 967 or 027 688 7312.



LEGAL SERVICES AMENDMENT ACT UPDATE

To the NZLS, legal aid providers and staff who have worked together on implementation of the Amendment Act – thank you very much for your willingness to help!

It has been a consuming task within the Agency over the last year and we couldn't have done it without the excellent cooperation between the Agency, the Society, and providers. This has been a significant opportunity to work together on legal aid processes, from policies and procedures to the design of forms. I know that the NZLS and various advisory groups of providers have been generous with their time, and their feedback has been influential in making sure things will work well for all of us under the new legislation.

New Provider Manuals: All legal aid firms, including sole practitioners, are being sent a copy of the new Provider Manual at no charge, as part of an information package we will be distributing in February. The manual can also be accessed through the Agency website. However there will be a charge of \$45 for any additional copies ordered from the Agency. The manual will be updated regularly by email and through the website. For the few providers who don't have internet access, we can still arrange to send out updates through traditional post. The new manual is far more comprehensive than the current version, and will contain Agency policies and procedures that Grants staff use to make legal aid decisions.

Promoting awareness of the changes: Legal Aid information sheets and the booklet, *A Guide to Legal Aid and Other Legal Assistance*, plus the Law-related Education kit, are all being updated to reflect the changes in legislation.

Groups, including listed providers, Government agencies, and community service providers will be receiving information packs with a variety of information that will include a mixture of the updated resources, a newsletter article, and a covering letter.

All of the information pack contents can be photocopied or downloaded from the Agency website for distribution.

You can expect to see and hear more about legal aid, the changes and where to get more information through a multi-media advertising campaign starting in February. The campaign will be aimed at people who might be eligible for legal aid under the new rules. It will include radio, newspaper and magazine coverage. We will let you know specifics when the advertising plan has been confirmed.



Robyn Nicholas

Forms: New forms are being printed. Testing has shown that we have achieved our objective of making the Civil/Family application and processing more streamlined. One of the provider testers even asked if they could keep using the new form from now on because it is so much better, and other feedback is that it is a major improvement.

For the criminal form, testing has shown that it will take a little longer to fill out. This is because of the need to collect more detailed financial information in order to meet the requirements of the new Act, particularly to assess whether people should repay some or all of their legal aid. The Agency is assessing the impact of the changes on the duty solicitor rosters and will, where necessary, extend the rosters. Duty solicitors will receive information packs which will explain how to complete the new forms. The information requirements and the questions are not

complex, but they do take around five minutes longer to fill in and there will be more pages to fax.

An information sheet will be available with the application forms so that applicants understand the process and their obligations. A small stock of new forms will be sent to law firms who have undertaken legal aid over the past year in February, along with instructions on how to order more forms and to remove old forms. Forms are also available from the Agency's website.

Because of Amendment Act requirements, we need people to be using the new forms immediately from 1 March 2007.

Training: The Agency is subsidising seminars for providers through the joint NZLS CLE/LSA programme, meaning it will only cost \$99 to attend. The session, which is a first for the Agency and the Law Society, focuses on:

- i) what changes from 1 March 2007, and
- ii) what hasn't changed, but could be made to work better

This is a great opportunity to learn from experienced providers, David More and Steven Zindel, and from senior LSA staff Frances Blyth, Sue England, Robyn Nicholas, and Paula Werahiko, who are sharing the presentation duties. We strongly encourage all current and potential providers to register with the NZLS if they haven't already.

E-mail on the Agency agenda

The Agency is planning to use e-mail communication with providers more in the future. For example, with the implementation of the Legal Services Amendment Act (2006) in March 2007, the Agency will begin sending updates to the Provider Manual via email.

Doing business by e-mail will help ensure more timely, and therefore more cost-effective communications between providers and the Agency.

You can update your contact details by e-mailing them to Provider@lsa.govt.nz



AWARDS

Congratulations to the team at the Whitireia community law centre, which won the inaugural College of Law Community Service in Law award at the 2006 New Zealand Law Awards. Organisers describe the award as recognising the integrity underpinning every lawyer's professional obligation to serve its community. The winning firm or individual will be recognised by its clients and the community for the outstanding contributions they have made to the community through the provision of pro-bono/not-for-profit legal advice or services to community groups and charitable organisations or through participating and applying their skills, expertise and experience in voluntary humanitarian work.

The Wellington CLC was also a finalist, along with several law firms and individual lawyers.

Pictured are Bill Bevan and Lisa Matthews from Whitireia CLC at the awards ceremony.

BAIL WITH ELECTRONIC MONITORING (EM BAIL)

The Agency has developed an interim policy on EM bail, while the programme is new and is still being rolled out nationally. The interim policy is available at <http://www.lsa.govt.nz/ListedProvider/policies/indexbail.htm>

Bail with Electronic Monitoring is available to people who have had bail refused or who have been remanded in custody because bail was not sought pre-trial. It allows the person to be released with electronic monitoring during the remand period, along with any other conditions the Court specifies.

Applications

A new application for criminal legal aid for an EM bail application is not required. EM bail applications are criminal proceedings, and bail proceedings are covered by an

application for criminal legal aid for substantive proceedings.

However, providers are required to submit an estimate on Form 2 Estimate for criminal proceedings.

The application for EM bail is made to the court. Copies of the application form are available at court.

If you have any questions about EM bail, contact the local office of the Police Prosecution Service.

Further information on EM bail can be found at www.police.govt.nz/embail <<http://www.police.govt.nz/embail>>.

If you have any questions about the Agency's interim policy, please contact Tara Sewell or Andrew Harbidge at Head Office.



LSA CHANGES AFFECTING YOUR BUSINESS

The Legal Services Amendment Act will start having an impact on law professionals doing business with the Legal Services Agency in the near future.

The Debt Management Group, which currently manages legal aid charges and debt, has moved in preparation for the changes. The new contact telephone number is 04 496 4708/09 and the new fax is 04 473 6526.

LSA's Robyn Nicholas says, "Training for providers, plus manuals and application forms are all being developed. They will be ready for distribution in February 07 in preparation for the new Act coming into effect on 1 March."

Legal aid information sheets and other supporting material for the general public is also being updated, and will be distributed in the New Year as well as being available on the Legal Services Agency's website, www.lsa.govt.nz

Where to send applications

With the increase in staff and resizing of office accommodation in preparation for the Amendment Act taking effect, the Agency has taken the opportunity to shift management of some work between offices as follows:

- All ACC and employment files are now being managed by the Christchurch office
- All Gisborne legal aid files move from Rotorua to Napier
- Half of the Civil (other) files will be managed by the Rotorua office from 1 February 2007. Rotorua will manage files from the Central North Island northward (i.e. all client files from area with telephone codes 07 and 09)
- The Wellington office will continue to manage Civil (other) files from the South Island and lower North Island (i.e. all client files from areas with telephone codes 03, 05 and 06)

You will receive a personal letter when existing files transfer.

All 12 legal aid offices continue to manage legal aid applications for criminal and family, including mental health. The table below outlines the distribution of work.

TYPES OF PROCEEDINGS COVERED BY EACH LSA OFFICE	
Office	Type of Proceedings
Whangarei	Family; Criminal
Auckland (Takapuna)	Family; Criminal
Manukau	Family; Criminal Applications for proceedings relating to Refugee status
Waitakere	Family; Criminal
Hamilton	Family; Criminal
Rotorua	Family; Criminal Civil (non-Family) applications from areas with telephone codes 09 or 07
Napier	Family; Criminal
New Plymouth	Family; Criminal
Wellington	Family; Criminal Court of Appeal Supreme Court Civil (non-Family) applications from areas with telephone codes 06, 04 or 03 Waitangi Tribunal
Christchurch	Family; Criminal ACC; Employment
Dunedin	Family; Criminal
Invercargill	Family; Criminal

Correction

David Julian Maze has been reappointed as the convenor of the Legal Aid Review Panel for a three year term, commencing 1 February 2007.

PARENTING HEARINGS PROGRAMME

The Agency has an interim policy for new parenting hearing programmes in the Family Court. The interim policy is available at <http://www.lsa.govt.nz/ListedProvider/policies/ParentingHearingsProgramme.htm>

The interim policy recognises a Family Court pilot for determining difficult childcare cases, called the Parenting Hearings Programme. The process will be faster (ideally decided within three months) and more focused on the child's needs and views.

The judge identifies the case as a possible parenting programme matter, and, at the first call hearing, if the matter is in the programme.

The two-year pilot began in November 2006 in the Auckland, Tauranga, Rotorua, Palmerston North, Wellington and Dunedin Courts.

The policy will be finalised in early 2007 after consultation with the New Zealand Law Society.

REVIEW OF INITIAL CRIMINAL LEGAL SERVICES

Police Detention Legal Assistance (PDLA) Scheme

The Agency is testing administrative changes to the PDLA scheme in the Auckland region. These changes are designed to improve the availability of PDLA lawyers to persons detained or questioned by Police.

Testing is intended to improve the operation of the PDLA roster system by:

- Restructuring the roster by type of legal matter (i.e. differentiating the roster)
- Actively managing the roster, including closer liaison with PDLA lawyers rostered about availability and other improvements
- Documenting the Agency's expectations of PDLA lawyers, and
- Improving access to up-to-date rosters for Police and the person being detained or to be questioned.

The first step in implementing the changes has been a survey of all Auckland PDLA lawyers so that lawyers can confirm their availability and indicate which types of legal matter they wish to be rostered for. It is proposed that a revised roster will be available prior to Christmas, with further changes introduced in successive rosters.

The only testing currently proposed is in the Auckland region. Consideration of testing in other localities will occur in mid 2007.

Other work proposed, or underway, to improve the operation of the PDLA scheme includes:

- Working with the profession to establish guidelines for when personal attendance is desirable
- Working with Police on take-up levels, and
- Discussing training for the scheme with the NZ Law Society's Continuing Legal Education.

Testing of administrative changes to the Duty Solicitor Scheme

Tests continue at Waitakere and Auckland District Courts, with the Agency issuing revised duty lawyer instructions in October to clarify its expectations of duty lawyers. A new policy for the Saturday and public holiday rosters has also been introduced, with eight duty lawyers now appointed at each court to cover those days.

Since the tests began there has been improvement in duty lawyer attendance on their rostered day. For example, before the test at the Waitakere District Court, 59% of lawyers (i.e. four out of the seven duty lawyers rostered) were not turning up on their rostered day. Often, replacements had not been arranged. The Agency's revised duty lawyer instructions, that allow for the replacement but not swapping of duty lawyer sessions, resulted in non-attendance rates dropping to 14% over the five weeks to 24 November. Similar improvements in attendance are being experienced at the Auckland District Court.

The first meeting of the stakeholder group for the Wellington test was held in December. The Wellington test is planned to begin in the second quarter of 2007.

A series of meetings are being arranged with Waitakere, Auckland and Wellington duty lawyers for early 2007. At the meetings the Agency will discuss the tests to date and discuss further proposed changes. The meeting at Waitakere will also address concerns recently expressed by some duty lawyers.

CHRISTMAS NEW YEAR ARRANGEMENTS

Legal aid offices

Most Agency legal aid offices will be closed from 22 December 2006 and reopen on Wednesday 3 January 2007. Providers will be advised of any local variations.

Where courts are operating and require decisions on granting and assignment for criminal legal aid applications, the Agency will have staff available to make those decisions.

Provider payments

The last payments in 2006 will be made on Thursday 21 December. Direct credit payments will be made on this date and cheques will be posted on this date.

The first payment for 2007 will be made on Thursday 4 January.

Parole Board matters

The Agency is appealing four LARP decisions (see 027/07) which overturn Agency decisions declining civil legal aid for Parole Board matters because the Agency considers these matters are essentially criminal in nature. The Agency considered that the best way forward was to seek clarification from the Court.

The Agency also sought a stay of execution of these decisions (Legal Services Agency v Bell & Legal Services Agency v Walker & ors) which was not successful. As a result, the Agency will consider civil legal aid applications for all Parole Board matters that are not eligible for criminal legal aid, until the substantive appeal is heard, currently scheduled for May 2007.

Policy

The Agency will consider Parole Board matters excluded under section 6 of the Legal Services Act 2000 as eligible proceedings for civil legal aid until further notice. A civil legal aid form must be submitted for these matters. The merits considerations in sections 7 (s 7 (1)(e)(v)) and 9 will apply.

Criminal providers may be assigned as criminal listing approvals include all Parole Board matters.

Given that applicants are generally in prison, the initial \$50 contribution will be waived.

Applications should be submitted to local regional offices.

Implementation

This policy change applies to all new applications for parole matters received on or after 4 December 2006 and any pending applications. If the Agency receives a request to reconsider an earlier decision, a civil legal aid application form will be required.