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Second interim report on the Public Defence Service pilot released



The second interim report of the Public Defence Service (PDS) pilot evaluation by Victoria University's Crime and Justice Research Centre has been published.

The report covers the period of 1 May 2004 to 31 March 2007 and compares the characteristics and outcomes for defendants represented by the PDS, private lawyers, and a pre-pilot sample at the Auckland and Manukau Courts.

Over this period, 28,484 criminal legal aid assignments were made and PDS was assigned 6678 cases, or 23%. The report notes that while the volumes taken on by PDS remained relatively steady, the volumes taken on by private providers have steadily increased in line with increases in total assignments.

A range of direct comparisons are made in the report, and techniques are used to assess whether differences are statistically significant. Some of the findings include:

- Case management and outcomes:
 - PDS cases were much more likely than private cases to plead guilty at their first plea, but by the end of the case there was little difference in plea
 - Jury cases made up a greater proportion of private cases than PDS cases
 - The conviction rate did not differ significantly between PDS and private providers
 - PDS cases in the Manukau Court were more likely to result in a community-based sentence and less likely to result in a prison sentence or monetary penalty or no sentence
 - In the Auckland Court, PDS appeared to have a slightly lower proportion of prison sentences, and a slightly higher proportion of monetary penalty or no sentence

- Some of the views of stakeholders including judges, prosecutors, court managers, probation staff, and representatives of community groups, were:
 - Tend to rate the quality of PDS service highly
 - More than half agreed or strongly agreed that PDS was providing professional leadership for the whole criminal legal aid sector in Auckland and Manukau
 - Positive about PDS' ability to meet the needs and expectations of Maori and Pacific peoples
- On the other hand, some of the contrasting views of private lawyers were:
 - More critical of the quality of PDS services, particularly perceived PDS prioritising of criminal assignments over duty solicitor commitments
 - Three-quarters disagreed or strongly disagreed that PDS was providing professional leadership in Auckland and Manukau
 - Negative about PDS' ability to meet the needs and expectations of Maori and Pacific peoples

Next steps – Client Survey

The evaluation team is shortly to commence the piloting of the client survey in the Auckland and Manukau courts and the main survey will be undertaken during July – September this year.

The final evaluation report is due to be published by December 2008.

The full report is available at: www.lsa.govt.nz

New Board member

Jane Taylor has joined the Board of the Legal Services Agency. She is a Queenstown-based barrister specialising in civil law and equity. Jane is a former Chartered Accountant and director and principal of Corporate Finance Limited in Auckland, and is currently Chair of the Milford Community Trust; Director, Research and Education Advanced Network Limited; and a Member of the Institute of Directors.



Statement of Intent 2007 – 2010

The Legal Services Agency's Statement of Intent 2007-2010 (SOI) has been tabled in Parliament.

The SOI sets out the intended performance for helping people access justice. The way forward builds on recent developments, most notably the implementation of the Legal Services Amendment Act. With increased financial eligibility, as well as establishing and managing debt repayments the Agency is building capability to ensure these changes are implemented well and ensuring future developments can be introduced.

The Agency is undergoing a major development programme, and while this is happening we will continue to work broadly and constructively with legal aid lawyers, other government agencies and community organisations. With their help we can develop services and operations that will more effectively help people access justice.

The SOI is available on the Agency's website at www.lsa.govt.nz

Payment for waiting time – Status Hearings

Changes have been made to the way providers of criminal legal aid have to complete their invoices for time spent in court. Actual hearing time now needs to be specified and actual waiting time needs to be specified separately, along with the time period. For example 15 minutes, between 1200 and 1215 hrs.

If waiting time of more than one hour is claimed, a summary of the circumstances for the claim must be submitted, including an explanation about why other work could not be completed and the reasons for the Court delay.

A Legal Aid Provider Manual update has been posted, and the information is available in the online provider manual at:

http://www.lsa.govt.nz/documents/Summary_June07.pdf

Legal aid for Electronic Monitoring of bail

Electronic Monitoring of bail (EM bail) allows some people who are remanded in custody to be released back into the community subject to being monitored electronically during the remand period.

A new application for criminal legal aid for an EM bail application is not required. Bail proceedings are covered by an application for criminal legal aid for the substantive proceedings. However, providers are required to submit an estimate on Form 2.

The Agency will pay for preparation time, hearing time and travel time subject to the policies outlined in the Legal aid provider manual. You can see the EM bail policies on the Agency website at:

<http://www.lsa.govt.nz/documents/InterimPolicy-BailwithElectronicMonitoring.pdf>

Litigation Experience Level Guidelines

The Agency's Litigation Experience Level Guidelines outline how a provider's experience is assessed. The guidelines are in the Legal Aid Provider Manual, which is available on the Agency's website.

Providers must apply for a litigation experience level when they first become a listed lead provider or when they want to increase their current experience level. Providers should note the contents of the guidelines when applying for a litigation experience level. The guidelines include information on:

- the three litigation experience levels
- what counts as litigation experience
- what does not count as litigation experience
- gaps in experience
- the effective date of increase
- information the provider needs to supply to the Agency
- notification of the Agency's decision.

The litigation experience level application form is part 3 of the Listed Lead Provider application form, which is also available on the Agency's website.

Review of Initial Criminal Legal Services

Changes to the Duty Solicitor scheme for Wellington area courts

Changes to the Duty Solicitor scheme have been extended to four Wellington region courts: Wellington, Upper Hutt, Lower Hutt, and Porirua District Courts. This is an extension of the tests which started at the Waitakere and Auckland District Courts last year.

Features of the Wellington area tests are:

- Duty lawyer supervisors have been appointed at the Wellington, Lower Hutt, and Porirua District Courts
- Duty lawyers are limited to being on one court roster
- Duty lawyers are no longer required to be on the roster of a court to be eligible for categories 1 & 2 rotation assignments at that court – called ‘de-linking’
- New duty lawyer instructions have been issued, effective 28 May 2007
- LSA has employed staff at each court to help defendants fill in applications for criminal legal aid.

As a result of ‘de-linking’ a revised procedure for assigning categories 1 & 2 rotation grants has been introduced. Lawyers can put their names down to receive rotation assignments from all four courts. However, nominating more than one court will not increase the overall number of rotation assignments received as the Agency is operating a system based on the equitable distribution of rotation assignments across all four courts.

More detailed information on the tests is on the Agency’s website www.lsa.govt.nz (About Us / Current Initiatives / Initial Criminal Legal Services and scroll down to the project document list).

One-off listing approval process

The Agency has recently received several applications for one-off listings where there has been insufficient time to assess the application.

Part of the process involves obtaining advice and information from Agency staff and the local consultative group, who may not be available on short notice.

If you intend to apply for a one-off listing, you need to allow at least five working days for your application to be assessed. There may be some urgent situations where this is not possible. If this is the case, you need to tell the Agency why the application is being made at short notice.

In either case, please provide all the required information in your letter of application to expedite the process. You will find the process, which outlines the information the Agency requires, in your Legal Aid Provider Manual or on the Agency’s website.

Updated Treaty of Waitangi resource

The LSA’s educational video about the Treaty of Waitangi, Journeys: Nga Tapuae, has been updated and converted to DVD.

Journeys: Nga Tapuae promotes understanding of Treaty of Waitangi legal issues.

Topics covered in the DVD series are the:

- significance of the Treaty of Waitangi as the founding document of New Zealand, its interpretation over time, and application to current systems, policies and events
- effects of colonisation on Maori and Pakeha
- tangata whenua perspectives on contemporary systems, policies and events
- concepts of partnership, land ownership, responsibility, protection, sovereignty and social justice.

The DVD costs \$16.90 to collect, \$21.90 to post within NZ. It can be ordered from the Legal Services Agency, phone 04 495 5910, or email info@lsa.govt.nz



Streamlining initiatives – fewer forms

One of the Agency's recent streamlining initiatives means the Confirmation of Benefit form is no longer needed for legal aid applications from people receiving a benefit.

A streamlined process with the Ministry of Social Development, plus the redesigned application forms means a quicker and smoother verification of benefit income, and fewer forms to fill in.

There are two new processes that allow this streamlining: attestation and verification.

On the new legal aid application forms, an applicant 'attests' they receive a benefit, and they give us permission to verify the information with the Ministry of Social Development (MSD).

In some circumstances, the Agency may also seek verification of benefit income from MSD to work out whether there will be a repayment and if so, how much it might be.

This information sharing process was developed with MSD and will take less time than it has previously. It also means that there is no chance that paperwork will be lost or misplaced.

It is also important for providers to note that the old Confirmation of Benefit forms will no longer be accepted by MSD.

Farewells

The Agency has farewelled two of the Management Team recently.

Frances Blyth, Manager Strategic Development, left the Agency in April after six years in the role. Some of the significant projects she was responsible for are the Public Defence Service and the National Survey of Un-met Legal Need. The speeches at her farewell from Agency and non-Agency colleagues noted she will be missed.

Tim Bowron, Manager Corporate, has also left the Agency after six years. Tim was the Agency's Chief Financial Officer, and his responsibilities include Business Analysis, Finance, Debt Management, Human Resources, Communications, Facilities and Administration, and Planning.

Temporary managers have been filling these roles before permanent replacements start.



Tim Bowron



Tim Bannatyne and Frances Blyth



Graham Taylor, Gary Gotlieb, and Michael Corry at Frances's farewell