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Waitakere service opens

The Waitakere Community Law Service was officially launched at a ceremony on 2 September, although the service has been operating since July. This milestone was achieved after some years of planning and development co-ordinated by Sue Dodds who now chairs the Management Committee.

The launch was well attended with the occasion marked by addresses from Waitakere City Mayor Bob Harvey, LSA Chief Executive Tim Bannatyne, and District Court Judge, Phillip Recordon. LSA Board Chair Carole Durbin and LSA Board members Pare Keiha and Pauline Winter also attended the launch.

This community law centre (CLC) operates out of shopfront premises located in central Henderson at 1A Trading Place. The CLC has three staff – Cissy Rock, co-ordinator and community development officer, Judith Wright, solicitor, and Sudha Bhana, administrator.



No dummies here...the novel shop-front display of the Waitakere service. Cards at the foot of the models read, from left, 'Sacked unfairly?' 'Problems with debt?', and 'Going to court?'

Services are based on building collaborative partnerships between a diverse group of existing community services providers. The CLC has also moved quickly to work with the Auckland Law School and the Equal Justice Project to offer legal advice clinics, which are supervised by the staff solicitor.

In its first three months, the work of the service has been mainly in the areas of civil and family law.

This brings to 27 the number of CLCs contracted with the Agency.



Opening ceremony line-up, from left: Tim Bannatyne (LSA Chief Executive), Sue Dodds (Chair), Bob Harvey (Waitakere City Mayor), and Warahi Paki (MC)



The Waitakere staff that make it happen, from left, Sudha Bhana, Administrator, Cissy Rock, Co-ordinator, and Judith Wright, solicitor.

Public Defence Service Pilot update

Assignment

Since the opening of the Public Defence Service Pilot (PDS) on 3 May 2004 until 14 October 2005, the PDS has undertaken a total of 3,349 cases in all four criminal proceedings categories. This represents 26% of all available assignments at the Auckland Court and 27% of all available assignments at the Manukau Court, the balance being taken up by private providers.

The above total assignments to the PDS are comprised of 1,782 assignments in the Auckland Court and 1,567 in the Manukau Court. Of these, 281 in the Auckland Court and 143 in the Manukau Court were PDS preferred lawyer assignments. Of the on rotation assignments to the PDS, a total of 1,501 were made in the Auckland Court and 1,424 in the Manukau Court.

In this period, 44% of assignments in the Auckland Court and 53% of assignments in the Manukau Court were available on rotation.

Details regarding the assignment numbers and percentages can be found on the Agency website www.lsa.govt.nz.

Evaluation

There is a quick link to the first interim report of the evaluation of the PDS Pilot, produced by Victoria University's Crime and Justice Research Centre, on the Agency's website (under Listed Provider).

The report presents initial findings under the evaluation, including the perceptions and views of local legal aid providers and other key stakeholders who participated in focus groups and interviews.

More CLC news

In mid-September, Community Law Canterbury and Maori Legal Services hosted the annual national community law centre (CLC) hui in Christchurch. The three-day event featured a mix of speakers and workshops on topics of interest, as well as social events.

The annual Agency/CLC meeting took place in Wellington on 21 September 2005. The main focus of the meeting was to discuss the development of a national funding policy for CLCs. The meeting was also an opportunity to receive views on a variety of topics, answer questions, and provide updates on the reporting project and the newly established CLCs in Waitakere and the Bay of Plenty.

CLC collaboration

Three Auckland CLCs – Mangere, Nga Ture Kaitiaki ki Waikato, and Otara – have collaborated to operate an outreach service to residents of Clendon in South Auckland.

The service is operating from premises provided by Housing New Zealand Corporation. The weekly clinic started on 14 July 2005 with each of the three CLCs taking duty on a roster using their existing resources. Since the clinic's beginnings, clients have sought a full range of services, involving many areas of law.

Provider waiting time

In response to two recent LARP decisions involving waiting time, the Agency sets out below the usual approach in criminal matters.

For matters such as List and Status hearings, the Agency's Criminal Steps (covering preparation, hearing times and sentencing) have been designed to accommodate the usual amount of waiting time at Court.

For example, under Step 4 of the Summary Steps, the Agency allows a maximum hearing time (including all prior appearances) of two hours, as well as half an hour for sentencing (on the same day).

In the Agency's experience, these maximum times accommodate the level of waiting that may normally occur between appearances.

The Agency's expectation is that the provider would wherever possible establish the expected time that they will be required for their matter, and attend court in line with that advice.

If the provider has been required by the court to wait an exceptionally long time, through no fault of their own, the Agency will consider payment in addition to the Steps for this waiting time.

Outside List and Status hearings, where providers are required to be in court at a specified time and through no fault of their own have to wait at court beyond that time, the Agency will remunerate actual waiting time. The Agency does not pay waiting time that could be avoided.

New employment or contact details?

So that your listed provider contact and payment details can be updated, you need to advise the Agency as soon as practicable, if you have recently moved to another firm or to sole practice, or your contact or bank details have changed.

Where possible, please advise the Agency before you commence your new employment, to ensure that you receive all Agency correspondence and that your current listings remain active. As provider numbers are linked to firms, you will be allocated a new provider number and Schedule A to your contract.

You will find links to the change of employment form (Listed Provider Application Part 7) and direct crediting form (Part 8) on the Agency's website under the tab 'How to become a listed provider' and 'Change to provider details'. Please either fax the completed forms to 04 495 5911 or send to Provider List Administration, PO Box 5333, Wellington, DX SP22526.

Global Granting consultation gets underway

Consultation with providers and the NZLS on a major proposal for streamlining granting for family proceedings will get underway this month. The proposed process for “global granting” is part of the Agency’s drive to simplify the granting of legal aid for standard family cases.

Global granting involves approving maximum grants up-front and paying claims using pro forma invoices. The key difference from the current process is that there would be no need for amendments to the grant.

The global grant contains a menu of specified services for standard family cases – providers would select from the menu, depending on how they managed a case. Each service has a fixed fee payment, which is expressed as a flat dollar rate. These individual maximum grants are bundled together into a single global grant and a pro forma invoice produced. Lawyers simply have to complete this and return it to the Agency. It would reduce the number of times a lawyer has to come to the Agency with a request for an amendment.

The global granting proposal is designed to be a win-win for providers and the Agency, which should produce efficiencies for both parties. It would allow providers to manage cases without having to seek the Agency’s approval to progress to the next step in the process. It would also give security of payment and providers would be able to claim throughout a case. Controlling cash flow would be in lawyers’ hands. Decision making would be speeded up and administrative compliance costs reduced. It is expected that the total legal aid expenditure across all of these grants would remain the same.

Consultation with providers

The Agency plans to both consult on and test the proposals before any decisions are made on whether to proceed with implementation. To assist with this the Agency is planning to establish two groups of providers, one for consultation and the other to test the proposed model against the current process.

The first group, chosen for their experience in family law, includes lawyers from different parts of the country, large and small firms and the Family Law Section of the NZLS. The Agency will consult this advisory group, as well as the NZLS, to establish whether any changes are needed to the proposed model before moving to a test phase.

It is planned that a second group of providers will be organized next month, and they will be asked to help test the proposal to see how it works in practice. Once this has been done, a decision can be made on whether to proceed with implementation. The Agency is setting up two groups of staff along similar lines.

Field test

We want to test this process with providers and Agency staff to ensure that it can deliver the expected benefits, without posing any risk to providers or the Agency.

Initial results from the field test are expected at the end of June 2006. We will keep you informed as the test progresses.

More information on the global granting concept and test are available on the Agency’s website: www.lsa.govt.nz (What’s New). Comments on the proposal are very welcome, and may be sent to info@lsa.govt.nz.

Legal Services Amendment Bill (No 2) – implementation update

As well as bringing the global granting field test to fruition, the Agency has continued work on the implementation plan and tasks for the Bill. This has included designing a draft process for eligibility assessment under the Bill as it currently stands.

The other major piece of work is designing the policy, processes, procedures and systems for debt management and recovery. This

flows from the draft legislation that would see more legally aided people repaying some or all of the legal aid grant.

Work is also underway on developing a plan for consulting with providers and the legal profession as the changes flowing from the Amendment Bill take shape.

Review of Initial Criminal Legal Services

The Agency is reviewing the provision of initial criminal legal services to identify possible improvements to the administration and provision of the Police Detention Legal Assistance (PDLA) scheme, the Duty Solicitor scheme and the legal aid scheme (as it links to the Duty Solicitor scheme).

Currently, the Agency is considering an initial report on services, which identifies options including:

- Improving the service profile and accessibility of the PDLA scheme
- Incentives and disincentives to support better outcomes for clients (such as early contact with lawyers) within Agency funded criminal legal services

- Improved quality of services through improvements in the administration of the Duty Solicitor scheme. Options includes changes to listing criteria for lawyers, alternative contracting approaches, and mentoring and supervision structures
- Continuous representation from the time the defendant is detained by the Police

The Agency will continue to work closely with providers and justice sector agencies in considering and implementing any changes. At present the Agency is specifically considering trialling improvements to the administration of the Duty Solicitor scheme in some courts.

Listed provider audits

The Agency performs two types of audits under s78 of the Legal Services Act 2000 (Act): random audits and special audits.

These audits are an integral part of ensuring the quality of services to legally aided people, and ensuring that providers comply with their statutory and contractual obligations. In this way they help to maintain the community's confidence in the effectiveness and integrity of the legal aid scheme.

The Agency appoints as auditors experienced legal practitioners who know the legal aid scheme and are up to date with best professional practice.

Special audits are undertaken on an as-needed basis, where the Agency has a concern about a listed provider's performance in providing legal aid services in accordance with their statutory or contractual obligations.

During the last year, random audits were undertaken on criminal and family listed providers. The key findings of these audits

illustrate the need for providers to be familiar with the Agency's policies and procedures and their obligations under the Act. In particular, to:

- ensure accurate time records are kept
- comply with s 66 of the Act, in respect of unauthorised payments (top-ups)
- charge only on the basis of time actually spent on legal aid matters
- ensure estimates on Form 2 include sufficient detail, and estimate guidelines are adhered to.

For the 2005/06 audit programme, we are taking a random sample of files across the different law types to help give us a broader view of how well providers are meeting their statutory and contractual obligations.

LARP update

Of the 19 decisions made by the Legal Aid Review Panel in October 2005, 6 (32%) upheld the Agency decision, none modified the Agency decision, 3 (15%) reversed the Agency decision, 6 (32%) decisions directed the Agency to reconsider its decision and 4 (21%) were for other reasons.

In October 15 (79%) of the 19 were requested by the legally aided person and 4 (21%) by the provider. Seven (37%) of decisions related to an Agency decision to decline a grant of aid, 6 (32%) of decisions related to the amount of legal aid granted, 2 (10%) related to contributions or charges, no decisions related to the withdrawal of aid and 4 (21%) related to other.

