

17 July 2007

## **Legal Services Agency Board**

# **Report on Public Defence Service Pilot against the Statement of Service**

### **Purpose**

- 1 This report informs you of the performance of the Public Defence Service pilot (PDS) against the Statement of Service for the period 1 March to 30 June 2007.

### **Statement of Service**

- 2 The third annual review of the Statement of Service has been completed, subject to consideration of comments from the New Zealand Law Society (NZLS) which were received on 17 July 2007. The Statement of Service will be updated to incorporate changes brought about by the Legal Services Amendment Act 2006 as well as updating performance measures and standards for the year and dates for reporting to the Minister.

### **Performance against Planning Forecast and Budget**

- 3 Actual assignments from 1 March to 30 June 2007 were at 24% in Auckland and 22% at Manukau. This represents 490 assignments in Auckland and 470 in Manukau. Attached to this report are tables showing the total assignments made for this period.
- 4 Overall, total assignments for the year were 2,406, which is within the performance standard for the year of 2,100 – 2,500 criminal legal aid cases.
- 5 Duty solicitor hours for the year were 1,249 against the performance standard for the year of 1,200 – 1,600.
- 6 PDS notional revenue for the year was less than planned. While the assignment ceiling (ie the number of assignments that the PDS will take per month) was increased in the previous reporting period, this has not made up for the shortfall. Notional revenue for 2007/2008 has been established at a level that should be achievable; however, there is likely to be an impact on the overall financial objective of the PDS as set out in the Cabinet paper (CAB Min (03) 28/2A), ie that PDS would be fiscally neutral within five years.
- 7 PDS expenditure is within forecasted expenditure levels allocated to the PDS.
- 8 In depth analysis of the case load, case mix and costs (including time spent on cases, fixed and variable overheads) has commenced and conclusions will be reported when reached. The financial objective for the PDS as set out in the Cabinet paper was based on modelling that was completed when the PDS was

established. Some factors that appear to contribute to the current financial performance as measured against the financial objective set out in the Cabinet paper are:

- The volume and mix of cases undertaken is less and different than what was modelled
- Murder and manslaughter cases were not included in the model
- The length of time to complete cases is longer than was modelled, particularly at the higher criminal proceedings categories
- Salary costs are higher than was modelled

### **Service delivery**

- 9 Case management, operational and administrative systems and processes continue to work well. Professional standards were maintained in terms of the Professional Code of Conduct and the Code of Conduct for PDS Lawyers and Other PDS Employees.
- 10 A personal grievance has been taken by a PDS lawyer (Manukau office). The grievance has been referred to mediation scheduled for 24 July 2007.
- 11 There has been a complaint that is under investigation by the Auckland District Law Society.

### **Risks**

- 12 There is a risk that the financial objectives for the PDS as set out in the Cabinet paper (CAB Min (03) 28/2A) will not be met. Work is underway to identify how this risk can be managed.

### **Recommendations**

- 13 It is recommended that the Board
  - a) **Note** the content of this report

**YES/NO**

Margaret Pearson  
Manager Service Contracts

For the period 1 March 2007 to 30 June 2007

| <b>Auckland Court</b> |                   | <b>Number of cases and assignment type</b> |                     |                 |                       |                     | <b>Assignment percentages</b> |                         |  |
|-----------------------|-------------------|--|---------------------|-----------------|-----------------------|---------------------|-------------------------------|-------------------------|--|
| Case Category         | Private Preferred | PDS Preferred                              | Private on Rotation | PDS on Rotation | Total Number of Cases | % Private Providers | % PDS                         | % Available on Rotation |  |
| 1                     | 818               | 86   | 528                 | 343             | 1,775                 | 75.8%               | 24.2%                         | 49.1%                   |  |
| 2                     | 55                | 9  | 20                  | 13              | 97                    | 77.3%               | 22.7%                         | 34.%                    |  |
| 3                     | 43                | 5  | 18                  | 26              | 92                    | 66.3%               | 33.7%                         | 47.8%                   |  |
| 4                     | 30                | 1  | 3                   | 7               | 41                    | 80.5%               | 19.5%                         | 24.4%                   |  |
| <b>Grand Total</b>    | <b>946</b>        | <b>101</b>                                 | <b>569</b>          | <b>389</b>      | <b>2,005</b>          | <b>75.6%</b>        | <b>24.4%</b>                  | <b>47.8%</b>            |  |

  

| <b>Manukau Court</b> |                   | <b>Number of cases and assignment type</b> |                     |                 |                       |                     | <b>Assignment percentages</b> |                         |  |
|----------------------|-------------------|--|---------------------|-----------------|-----------------------|---------------------|-------------------------------|-------------------------|--|
| Case Category        | Private Preferred | PDS Preferred                              | Private on Rotation | PDS on Rotation | Total Number of Cases | % Private Providers | % PDS                         | % Available on Rotation |  |
| 1                    | 928               | 90   | 637                 | 323             | 1,978                 | 79.1%               | 20.9%                         | 48.5%                   |  |
| 2                    | 46                | 5  | 21                  | 20              | 92                    | 72.8%               | 27.2%                         | 44.6%                   |  |
| 3                    | 45                | 7  | 19                  | 16              | 87                    | 73.6%               | 26.4%                         | 40.2%                   |  |
| 4                    | 18                | 4  | 6                   | 5               | 33                    | 72.7%               | 27.3%                         | 33.3%                   |  |
| <b>Grand Total</b>   | <b>1,037</b>      | <b>106</b>                                 | <b>683</b>          | <b>364</b>      | <b>2,190</b>          | <b>78.5%</b>        | <b>21.5%</b>                  | <b>47.8%</b>            |  |

