

11 July 2005

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 April to 30 June 2005.

Statement of Service

2. The first review of the Statement of Service has been completed. There were few changes and they were of a minor nature. It was agreed that future reviews will be conducted in February of each year. The revised Statement of Service will be available on the Agency website.

Performance against Planning Forecast and Budget

3. Under the Statement of Service, caseload and case mix over the first calendar year of the operation of the PDS was phased. From 1 July 2004 to 31 July 2004, the percentage of cases to be assigned to PDS was 25%. This increased on 1 August 2004 to 28%, and again on 1 November 2004 to 32%.
4. Attached to this report are tables showing the total assignments made against those forecast from 1 July 2004 to 30 June 2005.
5. At this time actual assignments from 1 July 2004 to 30 June 2005 at the Manukau office are at 27%. The actual assignments at the Auckland office for this period are at 25%. The variance continues to be due in part to the high level of cases assigned to preferred lawyers in the Auckland Court and recently, this is an emerging trend in the Manukau Court, as well.
6. As with previous reporting periods, assignment percentages continue to be below the forecasted percentages. In particular, the cumulative "on rotation" assignment percentage has been running at less than 50% at Auckland and as stated above, has emerged in the Manukau Court in this quarter.
7. From 1 July, 2005, the percentage of cases to be assigned to PDS increased to 33%.
8. In order to assist with management of lawyers' time, duty solicitor sessions at both the Manukau and Auckland Courts were reduced until the end of June. From 1 July

2005 or the date that new recruits commence employment, PDS will resume duty solicitor sessions five days per week.

9. PDS expenditure continues to be within forecasted expenditure levels allocated to the PDS.

Service delivery

10. PDS has been recruiting to fill four positions – three of which are approved positions that had not previously been filled and one to replace a staff member who has resigned. There continues to be difficulty in recruiting Criminal Proceedings Category 4 lawyers.
11. All case management, operational and administrative systems and processes continue to work well and professional standards are being maintained in terms of the Professional Code of Conduct and the Code of Conduct for PDS Lawyers and Other PDS Employees.
12. The development of the forecasting and reporting model to assist in managing and monitoring the performance of the PDS that was completed in the last quarter has been effectively used in preparation of business and financial plan for 2005/06. Alterations to PDS procedures that will increase the effectiveness of the model are under discussion.

Communications

13. Various groups, including the Auckland District Law Society, the Criminal Bar Association, and the New Zealand Law Society (NZLS) have regularly asked for information regarding the PDS. The Agency is endeavouring to develop a form of report that will address the requirements of the above as well as the Agency itself.
14. The NZLS has alleged breaches by PDS of Agency policy relating to the delegation of matters by the lead provider. This is being investigated by the Agency.

Evaluation

15. The first interim report on the evaluation of the PDS has been discussed with the evaluation advisory group and Victoria Universities Crime and Justice Research Centre. The intention of this report was to identify the types of information that may be useful for a better understanding of the PDS and the business of legal aid services in general.
16. It is too early in the evaluation to draw any conclusions on the success of the pilot overall. Key points for the Agency to note thus far include issues with category listings for lawyers and issues of quality assurance and performance standards for private practitioners.
17. A copy of the first interim report will be sent to the Minister on its completion. The second interim report is due in early 2007, with the final evaluation report due to be tabled in Parliament in December 2008.

Risks

18. Current assignment percentages in both Courts continue to be below the forecast percentage. In order to recoup the shortfall, additional on rotation assignments will continue to be made, as required and where the additional work can be assimilated. The additional assignments will be in accordance with the Agency's guidelines determining the maximum assignment levels and the maximum proportion of cases on rotation, which at any one time will not exceed a ratio of 2:1.
19. In addition, the Agency is commencing an exercise to explore whether there are any clear indications of widespread abuse of the preferred provider system in Auckland.
20. Assignment reports continue to be monitored closely.

Recommendations

21. It is recommended that the Board

- **Note** the content of this status report. **Yes/No**

Margaret Pearson
Manager Service Contracts

Assignments for the period 1 April 2005 to 30 June 2005

Auckland Court	Number of cases and assignment type					Assignment percentages		
Case Category	Private Preferred	PDS Preferred	Private On -Rotation	PDS On-Rotation	Total number of cases	% Private Providers	% PDS	% available on rotation
1 and 2	581	63	243	231	1,118	74%	26%	42%
3	42	2	14	11	69	81%	19%	36%
4	15	2	2	1	20	85%	15%	15%
Grand Total	638	67	259	243	1,207	74%	26%	42%

Manukau Court	Number of cases and assignment type					Assignment percentages		
Case Category	Private Preferred	PDS Preferred	Private On -Rotation	PDS On-Rotation	Total number of cases	% Private Providers	% PDS	% available on rotation
1 and 2	489	26	205	255	975	71%	29%	47%
3	27	2	10	9	48	77%	23%	40%
4	3	0	2	1	6	83%	17%	50%
Grand Total	519	28	217	265	1,029	72%	28%	47%