

15 October 2004

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.

Reporting period

2. It is to be noted that the information under the heading Performance against the Planning Forecast and Budget covers the period from 1 May to 30 September 2004. In all other respects, the information in this report covers the period 1 July to 30 September 2004.

Statement of Service

3. The Statement of Service provides for a review to take place as at 31 August 2004, with any amendments to be effective as from 1 October 2004. Requests for comments and feedback on the Statement of Service were distributed to the PDS, the Agency, and the members of the wider Reference Group for the PDS Evaluation, which includes the Auckland District Law Society and the Criminal Bar Association. A small number of comments have been received, notably from the New Zealand Law Society which was received in late September. The review process itself is in progress and is expected to be completed by the end of November.

Transition issues

4. Aside from the preparation of the PDS Operations Manual and a review of all corporate policies (both are underway), all other transition items are complete.

Performance against Planning Forecast and Budget

5. Under the Statement of Service, caseload and case mix over the first calendar year of the operation of the PDS is to be phased. For the period 1 May 2004 to 31 July 2004, the percentage of cases to be assigned to the PDS was 25%. This assignment percentage was met. For the period 1 August 2004 to 31 October 2004, the percentage of cases to be assigned to the PDS is 28%. During the period from 1 August to 30 September, the actual assignment level was 24%. The variance is in part due to the high level of cases assigned to preferred

lawyers and a correspondingly reduced number available for assignment on rotation in the Auckland Court. In addition, no assignments were made to the Manukau office of the PDS for a two-week period while staff were on leave. Attached to this report are tables showing the total assignments made against those Forecast.

6. PDS expenditure is within forecasted expenditure levels allocated to the PDS.

Service delivery

7. Both Auckland and Manukau PDS offices are working well and lawyers are handling full caseloads. Assignments are being made to the Public Defender as lead provider who is allocating matters on a case by case basis to other PDS listed providers having regard for the area of law, case category and current workloads. PDS has achieved 100% performance in notifying Grants of the name of the allocated provider within 5 days of the grant. The service is receiving positive feedback from Judges, Court staff, and Police prosecutors.
8. All case management, operational and administrative systems and processes are working 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.
9. The Agency is commissioning the development of a management decision-making tool, that is, a financial model that calculates the actual and projected cashflow, profitability and required resource mix for PDS. This model will be used to make management decisions on the month to month operations of the PDS. This work is expected to get underway in November 2004.

Communications

10. Following the finalisation of the PDS Maori name, Ratonga Wawao ä-Ture Tūmatanui, a brochure which informs on the services of the PDS has been produced for distribution to community law centres, Citizens Advice Bureaux and other relevant legal and community organisations.
11. In addition, information briefings have been provided to the Auckland Community Law Strategic Development Committee, the NZ Police Counties/Manukau Criminal Investigation Branch, and the Auckland Central Pacifica meeting.

Evaluation

12. The evaluation of the PDS, to be carried out by Victoria University's Crime and Justice Unit (CJRU), includes both an evaluation of the implementation of the pilot, to be completed by May 2005, and an impact evaluation, with the final report due to be completed at the start of 2009. Both phases include quantitative and qualitative evaluations including case data analysis and interviews with key stakeholders. The impact evaluation will also include a PDS client survey in 2007.

13. The Evaluation Advisory Group (EAG) comprises representatives from the New Zealand Law Society, the Auckland District Law Society, the Criminal Bar Association, the Ministries of Justice and Pacific Island Affairs, Ngati Whatua and the Agency.
14. The CJRU has begun a series of presentations to those who will be involved in the evaluation. CJRU will be presenting to two public meetings with Auckland defence lawyers in early November. Work to assess data matching opportunities between CMS and Agency systems is underway, as is an initial assessment of private sector legal aid lawyers' invoices submitted to the Agency over the past year, to see whether these can be used in the evaluation.
15. The NZLS continues to express concern over perceived systemic "advantages" benefiting the PDS over private sector legal aid lawyers. As a member of the EAG, the NZLS has been encouraged to participate in the evaluation where the concerns can be fully explored.

Risks

16. Current assignment percentages are below the forecast percentage. In order to recoup the shortfall that arose as a result of the two-week staff leave period, additional assignments will be made to the Manukau office when new staff appointments have started. This is likely to be in late November. 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. In addition, recent assignment percentages in Auckland demonstrate a small increase in the percentage of assignments available on rotation.
17. Assignment reports continue to be monitored closely.

Recommendations

18. It is recommended that the Board

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

Margaret Pearson
Manager Service Contracts

For the period 1 May 2004 to 31 July 2004

Case Category	Forecast			Actual		
	Total	% cases	Cases	Total	% cases	Cases
	Cases	assigned	Assigned to PDS	Cases	assigned	Assigned to PDS
Category 1	1687	25	429	1833	25	455
Category 2	118	25	29	162	25	41
Category 3	107	20	21	96	26	25
Cat 4a, Murder & Manslaughter	7			7	29	2
Cat 4b. Offences other than M&M	27	17	5	52	23	12
	1939	25	484	2150	25	535

For the period 1 August 2004 to 31 October 2004

Case Category	Forecast			Actual for two months to 30 September		
	Total	% cases	Cases	Total	% cases	Cases
	Cases	assigned	Assigned to PDS	Cases	assigned	Assigned to PDS
Category 1	1,687	28	481	1,215	24	292
Category 2	118	28	33	84	24	20
Category 3	107	22	24	73	25	18
Cat 4a, Murder & Manslaughter						
Cat 4b. Offences other than M&M	27	19	5	29	21	6
	1,939	28	543	1,401	24	336