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New Payment Policy for Callovers

Payment for pre-trial callovers is changing from 1 October 2007, with a new Judge's Practice note taking effect. The changes are being applied throughout New Zealand from 1 October, and the Agency will now pay:

- Up to 2 hours preparation time for the initial callover, and up to one further hour (so a maximum of 3 hours in total) for subsequent callovers. This will cover the preparation of the memorandum which is the basis for the callover to proceed.
- Actual hearing time at the Guideline Hourly Rate.
- Travel time, as per the Agency's travel policy.
- If, because of special circumstances, listed providers expect to request more than the maximum of 3 hours they are to submit a completed Form 2; criminal amendment and a covering letter advising the reasons for seeking a grant in excess of the maximum rate. Upon receipt of Form 2 and the covering letter the file may be referred to a specialist adviser for a recommendation, depending on the amount requested.

More information is available from www.lsa.govt.nz/lpnews.php

Ordering Forms Electronically

A reminder for providers that the quickest and cheapest way to order Agency forms is by e-mailing our printer, Baseline.

There is an order form on the website, and you can log in directly to it at www.lsaforms.co.nz

Criminal Justice Reform Changes

Two of the new sentencing options under the changes in the Sentencing Amendment Act 2007 impact on the Agency's legal aid procedures, namely judicial monitoring and home detention. These changes are in effect from 1 October 2007.

The Agency will pay the following for judicial monitoring:

- Preparation time: review of the report and attendances on the client up to 3 hours at GHR for PC2, 4 hours at GHR for PC3 and 5 hours at GHR for PC4. The same preparation time will be available for change of sentence preparation. If there are any subsequent reports and attendances, preparation time of up to 1 hour at GHR will be available. Actual hearing time will be paid at the GHR.

Amendments to the home detention Steps are:

- Preparation time for attendances on the client which may include assistance with the application form, filing of documents, and preparation of submissions of up to 3 hours at GHR for PC2, 4 hours at GHR for PC3 and 5 hours at GHR for PC4. Actual hearing time will be paid at GHR. If there is a new assignment, an extra 3 hours will be added to the preparation time at the appropriate level.

These steps have been based on the current steps in the manual for sentencing submissions, and are in addition to those existing steps.

There is more information at www.lsa.govt.nz/lpnews.php

Survey

A survey has been enclosed with this edition of LSA News to see how you would like to receive information like newsletters and updates to Agency manuals in future.

We would like to be more flexible in how we communicate with the legal aid community, and in particular provide better opportunities for feedback. Part of the need for flexibility is ensuring the Agency can be responsive to events that may require updating or informing the legal aid community in a timely way.

A further reason for the survey is to help manage the Agency's cost of communications, and electronic communications, including e-mail, are generally more cost-effective than paper-based communications.

Your feedback is valued, and there is no cost to send the survey back to the Agency.

Random Audit Results

Each year, under section 78 of the Legal Services Act 2000, the Agency undertakes a random audit of providers.

For the 2006-2007 year, a file-based random audit was undertaken, looking at 110 individual cases where claims paid by the Agency totalled more than \$1500.

Overall, 92% of the files were of a standard acceptable to the Agency.

There were some areas where the auditors felt improvements can be made including accurate documentation to show that the file represented value for money, and substantiating the amount billed. We wish to remind providers of clause 4.20 of their contract for services with the Agency, which requires providers to maintain accurate and complete records of all legal services supplied under the contract. The auditors also noted that 8% of cases represented an unsatisfactory standard of file maintenance, up from 3% the previous year.

The Agency was pleased to note that there appeared to be no significant issues with:

- Recovery of fees from the aided person pursuant to s28(4) of the Legal Services Act 2000 (Act)
- Accuracy of invoicing
- Protection of the Agency's interests under s68 of the Act.

Recurrent issues that concerned the Agency were:

- Failure to keep the client adequately informed of progress and results
- Failure to notify the Court and other party of the grant of legal aid, as required by s. 21 of the Act (for civil and family cases)
- Lack of time records or unclear time records, making reconciliation with billing difficult
- Lack of Agency approval for delegation of non-minor matters by the lead provider.

Issues occurring less frequently included:

- Timeliness of applications for legal aid
- Timeliness of billing the Agency for work undertaken
- Timeliness of communication with the Agency, and keeping the Agency informed of changes in clients' circumstances
- Failure to use the correct Proceedings Category for criminal cases for billing and amendments

The Agency would like to remind all providers of the need to ensure that legal aid files clearly reflect the work undertaken, and that all relevant documents, including time records, are maintained on each file in a logical manner.

The Agency thanks those providers who were audited for their cooperation and assistance during the audit. A similar sample of files is being audited for the 2007-2008 year.



Financial Eligibility Guide

The Legal Services Agency has developed a guide to help members of the public determine whether they might be financially eligible for civil legal aid.

Previously there was a 'Means Calculator' on the LSA website to assist with this. Since the implementation on 1 March 2007 of the Legal Services Amendment Act 2006 the eligibility rules have changed, so a replacement calculator/guide was needed.

The financial eligibility rules are now more complex, so the new guide is intended to provide accurate information for the more straightforward circumstances while encouraging applicants to contact the Agency for a fuller assessment of their circumstances.

The guide has three main goals:

- Enable users to assess the likelihood of their financial eligibility for legal aid
- Advise users how to get further information about financial eligibility for legal aid
- Encourage users to contact a lawyer or the Agency if they may be eligible for legal aid

The main flow of the questions takes the user through the details needed for an assessment of financial eligibility. If the user's circumstances are straight-forward, the calculator gives an indication of likely eligibility. If the user's circumstances are complex, the calculator will tell the user where the complexities arise and encourage them to seek further advice.

Additional features include:

- information and explanations to help users get the most from the calculator
- help for users to tally up different sources of income and to find out more about a particular income they are getting
- links to the LSA and other website pages

You can find the guide at www.lsa.govt.nz

National CLC hui and Grey Lynn Neighbourhood Law Office 30th birthday celebration – Helen Twentyman, Head Solicitor

The national community law centre hui was hosted from 29-31 August this year by the Grey Lynn Neighbourhood Law Office. The hui was held in conjunction with the 30th birthday celebration dinner for the Neighbourhood Law Office which was New Zealand's first community law centre.

It is a testament to the strength of the community law centre movement that all but one of the community law centres attended the hui.

A wide range of subjects was covered across the three days including restorative justice, developments in the community law centre movement, family violence and new initiatives in the justice system, privacy and inter-agency information sharing, school suspensions, gangs, and implications of the One Society proposal for law societies, the new Coroner's Act, and Child Youth and Family subjects.

The 30th birthday dinner for the Grey Lynn Neighbourhood Law Office was a tribute to the pioneers who set up the office who included Robert Ludbrook, Piers Davies and Bruce Slane. The

Neighbourhood Law Office's first lawyer John Wilson, attended the dinner as did the first community worker, Vapi Kupenga. Many of the past and present staff and trustees of the Neighbourhood Law Office came to the dinner. Importantly the whanau of Agnes Tuisamoa and Pare McIntyre attended the dinner. Agnes and Pare were long serving members on the Neighbourhood Law Office Trust Board and were committed community leaders in Grey Lynn for many years. The Deputy Mayor of Auckland, Dr Bruce Hucker and the Minister of Auckland Issues, Honourable Judith Tizard, also paid tribute to the work of the Neighbourhood Law Office as did the President of the Auckland District Law Society, Andrew Gilchrest and the Chief Judge of the High Court, His Honour Justice Randerson.

The Neighbourhood Law Office thanks the Auckland community law centres for their help during the hui and looks forward to another 30 years of working in the community. Thanks also to the supporters of the office over the years including many members of the legal profession and communities.

Two New Community Law Centres Contracted

Two new organisations have joined the ranks of contracted community legal services providers. They are:

The Auckland Disability Law Centre has been established to address the unmet legal needs of disabled persons in the Auckland region. What makes this Centre unique is that it has no individual infrastructure and is hosted by the Mangere Community Law Centre Trust with its annual work plan being guided by a Steering Committee comprised of representatives of each of the Auckland CLCs and from the disabled community.

There will be a phased implementation of services. The first stage will focus on assisting the entire existing legal workforce to improve the provision of current legal services to disabled people.

One Double Five Whare Roopu Community House Trust is based in Kamo, Whangarei. It has been providing free legal advice clinics since 1993. The contract as a CLC will allow it to employ specialist legal staff (a solicitor and an advocate) to supplement its existing resources to provide casework, legal information and law-related education services. The Centre will operate from premises adjacent to the community house and from other locations in the community. The Centre initially will focus on casework services in Whangarei City but will offer other legal services in other parts of Northland.

New funding has also been provided for the Nelson Bays Community Law Service to open a Westport community law centre. A part-time legal educator will run the Westport branch one day a week and travel to Reefton and Karamea fortnightly.

CLC National Funding Policy

The Agency's National Funding Policy was released for partial implementation. The policy is an embodiment of section 88 of the Legal Services Act 2000 and set out the framework for distribution of the funding by balancing access coverage, equitable access, the monies available and the need for effectiveness. The consultation round with CLCs leading up to the Agency formulating its policy generated divergent views among CLCs on some topics. It also emphasised the differences in focus between provider and funder. Parts of the policy will not be applied until the detail required for its implementation has been developed in consultation with CLCs.

Work within the Agency arising from the contract terminations and development of the national funding policy has highlighted a historical variance between the levels of services contracted and the levels actually reported as provided. This has led to calls by the Agency for CLCs to closely look at what is realistic and achievable when planning the annual workloads.

Informing Clients

The issue of legal aid applicants being appropriately informed of their rights and obligations has been raised, as a result of client information sheets being returned to the Agency with the application forms.

The sheets are attached to the applications, but perforated for easy removal when someone is applying for aid. It is important that people applying for aid are aware of their rights and their obligations when they sign an application form. The information sheets are a useful way to ensure all applicants get consistent information, know where to turn if they have any problems and have an easy reference sheet available to them at home. It would be very much appreciated if the sheet could be removed from the application and handed to the client before the application is returned to the Agency.

PDLA – New Practice Note

Police Detention Legal Assistance scheme lawyers can expect to receive more calls under the scheme as a consequence of the Practice Note on Police Questioning (s30(6) Evidence Act 2006), which came into effect from 1 August. The Practice Note requires Police, when advising of the right to consult and instruct a lawyer, to also advise that the person can access a lawyer without cost under the PDLA scheme. A pdf version of the practice Note can be accessed at www.courtsofnz.govt.nz/business/documents/PracticenoteonPolicequestioning.pdf.

Guidelines on Personal Attendance

The Agency is currently consulting with District Law Societies on draft guidelines on when personal attendance under the PDLA scheme may be desirable with a view to promulgating these guidelines to PDLA lawyers nationally.

The Agency has worked with a group of experienced PDLA lawyers from across the country to develop these draft guidelines. The Agency has since consulted with the New Zealand Law Society Legal Services and Criminal Law Committees which have, subject to some amendment that has been made, given support to the introduction of the guidelines nationally.

The Agency's records indicate that personal attendance numbers have fallen to less than 3% of instances nationally. The draft guidelines draw on material from the Guide prepared by Andrew Becroft and Stephen O'Driscoll, and are intended to be readily accessible for lawyers' reference.

New Manager Strategic Development

Alasdair Finnie is the new Manager Strategic Development.

He has an LLB (Hons) and a Master of Philosophy of Law.

His most recent position was with the Ministry of Health providing advice on privacy and other issues on national health information collection and system developments. Prior to that he was Chief Executive of Arthritis NZ, and before that headed the Official Information section in the Ombudsman's Office.



New Manager Corporate

Phil Green is the new Manager Corporate. He is a Chartered Accountant. Phil comes from the Department of Labour where he undertook a variety of roles including managing the ACC Policy and Monitoring, establishment manager for the Central Region of the Workplace Group and Strategic Support Manager for the Employment Relations Service.

Congratulations Peter Walker

Co-chair of the Agency's Public Advisory Committee, Peter Walker recently received a doctorate from the University of Otago. His thesis on partnerships involving social service organisations is the result of nine years part time work, and he describes the achievement as a great relief.

The graduation is one of the first two for Otago's Department of Social Work and Community Development. Much of Peter's research for the thesis has already been published internationally.



New Zealand Government

Helping people access justice