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## Change in provider remuneration rate

In the recent Budget, the Government approved funding to allow the remuneration rates under the current legal aid schemes to be increased for 2008/09.

The level of funding approved will enable the Legal Services Agency to increase the rates of remuneration paid to legal aid lawyers and other listed providers by 10%. This increase will be applied uniformly across all proceedings and forum categories for all levels of experience, and to any fixed and special fee rates applied under the Agency's current steps in the legal aid schemes, and the duty solicitor and police detention legal assistance schemes.

The increase in rates, fixed fees and special rates will be effective from Tuesday 1 July 2008. The rates have been rounded to the nearest \$1 rather than \$5 as in the past. This has enabled the full increase funded to be passed on. The only downside to this is that the rates are perhaps no longer as 'memorable' for calculation purposes as in the past.

All work performed under legal aid schemes up to and including 30 June 2008 will be charged at the existing (old) rates and all work performed under legal aid schemes from 1 July 2008 may be charged at the new rates. The introduction of the new rates will require that two sets of rates are managed through a transition period while billing is completed by providers for all work they are engaged on up to and including 30 June and continuing from 1 July.

We anticipate that, if the billing for legal services is kept up to date, and the instructions are followed, then the transition period will be relatively short. Lawyers and other listed providers are encouraged to plan for the implementation of the increase in rates and fees by promptly billing for all work up to and including 30 June 2008 under the old rates and fees and ensuring that invoicing software or billing templates are changed to accommodate the new rate and fee structure in July 2008.

The increase in rate will lead to an increase in the cost of services on each 'open' case from the implementation date. This may have an effect on the legally aided person – to the extent that it could increase the amount of the final repayment.



## Training sessions

In February, in association with the Retirement Commission, the Agency organised training seminars in Wellington, Auckland and Christchurch inviting staff from all twenty-seven community law centres. About 60 staff from twenty centres attended one of the three seminars for presentations by:

- The Retirement Commission on the Retirement Villages Act 2003.

- The Commerce Commission on the Credit Contracts and Consumer Finance Act 2003.
- The New Zealand Insolvency and Trustee Services on the Insolvency Act 2006.

According to Margaret Pearson, Manager Service Contracts, this was a new approach for the Agency in supporting community law centres and the feedback from those who attended suggest that the opportunities were relevant and appreciated.

## New law service in Auckland

Auckland Disability Law opened in May and the centre will assist disabled people to get fair and full access to legal services. Auckland Disability Law was developed by the Legal Services Agency and community law centres in the Auckland region.

'Auckland Disability Law has already received a positive response and lots of enquiries from disabled people and disability organisations,' said Nicola Owen, Auckland Disability Law development manager. 'We are looking forward to developing strong relationships with community law centres and other legal professionals to meet the community's needs. So far the support has been fantastic. We are about to start our outreach clinics, beginning at Waitakere Community Law Service, and have already had positive outcomes for clients referred to other services.'

A research team commissioned by the Legal Services Agency in 2005, consulted widely among disabled people, their advocates and disability organisations, and with lawyers and community law centres, and Auckland Disability Law developed from that research.

'I am delighted that the Agency has been able to support the development of Auckland Disability Law,' said Chief Executive Tim Bannatyne. 'I am sure that it will make a very valuable contribution to those in need. We are conscious, however, that our support runs alongside many others who have helped on the way and their contribution needs to be recognised-from a wide spectrum of the community not least those who will now take Auckland Disability Law to the people who will benefit.'



Photo: Mark Ryan

*Legal Services Agency Chief Executive Tim Bannatyne with Dr Pare Keiha, Pro Vice Chancellor Maori Advancement at AUT and Legal Services Agency Board member, and Harvena Hudson, Solicitor at YouthLaw and Auckland Disability Law Steering Committee member.*

## Business systems upgrade

Work will begin on scoping the Legal Services Agency business systems upgrade in June.

The upgrade will be to a legal aid management system that is flexible enough to support streamlined transaction processing between legal aid lawyers and the Agency. It will then be possible to introduce simpler and more responsive processes, such as standardised granting (previously known as global granting), and electronic lodgement, amendment and payment transactions.

'This is a very important part of our commitment to legal aid lawyers to reduce the time it takes to interact with us on the granting process,' said John Worden, project manager of the upgrade. 'Limitations in our present system have made it difficult to be consistently responsive to lawyers. It will also give us the tools to improve the consistency and quality of our decision-making on grants.'

Details of the upgrade progress will be available in later issues of LSA News and on [www.lsa.govt.nz](http://www.lsa.govt.nz).

# Review of initial legal services

## *PDLA scheme improvements*

All Police Detention Legal Assistance Scheme (PDLA) lawyers should have received new guidelines on PDLA scheme personal attendance. The guidelines were developed by the Agency in consultation with the New Zealand Law Society and were distributed as part of the Agency's Policy on Police Detention Legal Assistance Scheme in April.

Information on the Agency's test of changes to the scheme in greater Auckland was also included in the April mail-out. One of the changes developed from this test is online access by the New Zealand Police to all PDLA lists and rosters. The Agency no longer sends the Police hard copy lists and the Police access the PDLA roster solely through their intranet, which links to the Agency's website.

During the Auckland test, this new arrangement worked well and a number of advantages were identified. In particular, it ensures that the most up-to-date PDLA roster or list can be accessed and that the rosters can be easily updated when contact details change.

The revised policy and guidelines are at [www.lsa.govt.nz](http://www.lsa.govt.nz). A report on the Auckland test is also available on the Agency's website.

## *Duty Solicitor scheme*

Testing changes to the Duty Solicitor scheme continues at the Waitakere, Auckland, Wellington, Lower Hutt and Porirua District Courts. When the Agency met the Waitakere District Court

stakeholder group earlier this year, they endorsed the changes and were positive about the more reliable service.

Please see [www.lsa.govt.nz](http://www.lsa.govt.nz) for more detailed information on these changes.

## *Agency Memoranda of Understanding*

The Agency has had a Memorandum of Understanding (MoU) with the Office of Treaty Settlements (OTS) since 16 October 2007 to exchange limited information on the funding of claimant groups involved in Treaty settlement negotiations. The information supplied by the Agency is the names of the individual claimants being funded by legal aid, the Wai numbers allocated, the names of the respective claimant groups, the date that aid was granted and the names of the claimant providers involved.

OTS will then supply the names of the mandated claimant groups that are being funded by OTS to negotiate settlement of their claims, together with the respective Wai numbers and the names of the lawyers involved.

No other information will be exchanged. The sole purpose of the MoU is to assist the Agency to ensure that there is no duplication of funding for legal services in the Treaty Settlement process.

The Agency entered into a similar MoU with Crown Forestry Rental Trust (CFRT), also exchanging limited information to prevent funding duplication.

## Tax tips

### *GST requirements*

Now that the last tax year has drawn to a close, it seems timely to remind everyone of the legislative requirements for completing the Agency's tax invoices (forms 4 and 10) as per section 24(3) Goods and Services Act 1985 No 141.

By law, all Agency invoices must include:

- The name and GST registration number of the provider.
- The Agency's name and address.
- The date when the tax invoice is issued.
- A description of the goods and services supplied (including quantity) and one of the following:
  - the tax-exclusive amount (if not GST registered)
  - the tax-inclusive price and a statement to the effect that it is an inclusive price (if GST registered).

Please note that the Agency's guideline hourly rates are inclusive of GST so providers who are not GST registered should be claiming the GST exclusive rate on all Agency invoices.

# What's new?

## Section 68 Guidelines

Section 68 of the Legal Services Act 2000 outlines listed provider obligations in protecting the Agency's interests in relation to charges and proceeds of proceedings. The Agency has finalised a set of guidelines to assist with this and these are now available in the Agency's online Legal Aid Provider Manual as an appendix to the Investigating and Managing Provider Conduct Process (Service Contracts section) – please note that they are not in the hard copy manual.

## Amendments to Suspension Consideration and Review process

The Suspension Consideration and Review process (the process) relates to sections 72A and 73 of the Legal Services Act 2000 (the Act). These sections of the Act enable the Agency to temporarily suspend or cancel a provider's listing approval/s on certain grounds.

The process has been in place for over two years and two aspects have been amended.

1. When the Agency has decided to suspend a provider's listing approval/s, a condition will be placed on the provider's listing approval/s which excludes him/her from being assigned new matters from notification of the decision to the provider until the effective date of suspension. Providers may still be able to continue working on matters already assigned.
2. The second change relates to the composition of the suspension consideration and review panels. External lawyers will no longer be appointed to the panels, but may be appointed to advise on any practical issues involved with providing legal aid services.

## Post Audit Process

The Agency audits listed legal aid providers to assess the quality and value of the services that have been, or may be, paid for by the Agency. The Agency has now finalised a Post Audit Process for completed provider audits.

Please see the Agency's online Legal Aid Provider Manual for more details on both these processes.

## Audit programmes

The Agency currently undertakes the following audit programmes:

- Random file audit programme: audits a random selection of completed files for compliance with legislative and contractual obligations.
- Quality and value audit programme: audits a selection of providers and assesses their overall provision of legal services based on a review of a number of files.
- Special audits: to determine whether the interests of the legal aid and other schemes, the interest of the public or the accountability of the Agency are being upheld by a provider.

## Key points:

- The Agency will contact the legal aid provider within 20 working days of receipt of the audit results.
- Providers will be advised of any recommendations as a result of the audit and, depending on the recommendation/s made, Providers may be required to respond.
- Responses will be considered and the Agency will decide whether further action is required.
- Where further action is required, the Agency will advise the provider of the action/s it intends to take for example provider monitoring, follow up audit, conditions on listing approvals.

Information on the Post Audit Process will be kept on providers' files, and anonymous audit and post audit results will be published in the LSA News.



**New Zealand Government**

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