Legal Services Agency
Pokapū Ratonga Ture

Part 7 – Assurance Checking

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Overview

1 This document outlines the Legal Services Agency's (the Agency) procedure for managing the Assurance Checking programme.

2 The Assurance Checking programme includes the:

- Assurance Checking process (ACP);
- Annual random selection of standard granting files from 1 July to 30 June based on set criteria;
- Scheduling assurance checks;
- Checking Lead Provider (Provider) files and identifying issues and concerns;
- Follow up assurance checks; and
- Reporting and managing issues identified by the assurance checks;
- Post assurance checking process;
- Reporting and resolving issues substantiated by the ACP.

Purpose

3 Section 92(a) of the Legal Services Act 2000 (the Act) requires the Agency to '*administer schemes in as consistent, accountable, inexpensive, and efficient a manner as is consistent with the purpose of this Act.*'

4 The Agency has sought to achieve this purpose by streamlining the administration of legal aid and in particular the granting process.

5 The Assurance checking programme enables the Agency to ensure compliance with Agency polices and procedures and mitigate the risks associated with streamlining the administration of legal aid for both Listed Providers and the Agency.

6 This procedure is consistent with the purpose and functions of the Act and operates in accordance with the principles of fairness, transparency, consistency and natural justice.

Scope

7 This process applies to active Providers providing legal services within the legal aid steps.

Definitions

8 Unless otherwise stated, the following definitions apply for the purpose of this procedure:

Act	Means the Legal Services Act 2000.
Assurance Checking Process database	The Agency's tool for managing, recording and monitoring the assurance checking process.
Active (Listed Provider)	Means a Listed Provider whose listing status is "active" on the Legal Services List and who is able to provide legal services

	under the Agency's schemes.
Agency	Means the Legal Services Agency, a body corporate established by Section 91 of the Act.
Agency concern	Where the Agency has concerns regarding a Listed Provider's conduct, which may indicate that they have failed to comply with their legislative, contractual or professional obligations while providing legal services.
Compliance	Where a Listed Provider complies with the Agency's policies and procedures.
Contract for Services (Contract)	The agreement between the Agency and Listed Provider to supply professional Legal Services. In accordance with the Listing Criteria, all Listed Providers must hold a current Contract for Services with the Agency in order to provide services under the Legal Aid, Duty Solicitor, Police Detention Legal Assistance Schemes and any other approved schemes.
Investigating and Managing Provider Conduct process	The Agency's approach and processes for dealing with concerns raised about the conduct of a Listed Provider when providing legal services.
Lead Provider	A listed provider who is a lawyer or employment advocate who meets the General Listing Criteria and has been approved to take on legally aided matters unsupervised.
Legal Services	In relation to legal aid, means legal advice and representation; and includes assistance (i) with resolving disputes other than by legal proceedings; and (ii) with taking steps preliminary or incidental to any proceedings; and (iii) in arriving at or giving effect to any out-of court settlement that avoids or brings to an end any proceedings.
Listed Provider	In relation to the provision of particular services under one or more schemes, means a natural person who is listed as approved to provide those services.
Non-compliance	Where a Listed Provider does not comply with the Agency's policies and procedures
Obligations	A Listed Provider's obligations as outlined in legislation, the Contract and any relevant policies and procedures.
Provider Monitoring Register (PMR)	A central register where all matters will be recorded. The PMR is a monitoring and reporting tool for the Agency.
Standard Family Granting (SFG)	The policy that streamlines the granting process for certain family matters by reducing the number of amendments to grants required under the standard granting policy.
Unacceptable non-compliance	Where a Listed Provider's action or omission in not complying with Agency's policies and procedures is negligent or reckless and is not a standard acceptable to the Agency

Responsibilities

Audit and Risk Committee

- Receives quarterly reports on the assurance checking programme and any recommended remedial action.

General Manager / Manager Service Delivery

- Approves the Assurance Checking Programme; and
- Approves annually the number, type and budget for assurance checks.

Manager Provider Services / Adviser Service Contracts

- Manager Provider Services approves follow-up assurance checks;
- Adviser Service Contracts recommends follow-up assurance checks;
- Develops and maintains assurance checking and post assurance checking processes relating to Providers;
- Liaises with and manages post assurance checks correspondence with the Provider as appropriate; and
- Ensures that any agreed recommended remedial actions are monitored to confirm that the Provider is performing as expected.

Team Leader Provider Services / Assurance Officer (AO)

- Schedules assurance checks;
- Provides and maintains an appropriate assurance checking resource;
- Provides trend analysis, as required, for common or recurrent issues;
- Resolves any non co-operation on the part of the Provider being checked;
- Liaises with and manages post assurance checks correspondence with the Provider as appropriate;
- Where required, recommends follow-up assurance checks;
- Provides coordination, escalation, monitoring and reporting functions to ensure the timely progress of recommended actions;
- Reports progress on the resolution of the recommended remedial actions from the assurance checks to the Audit and Risk Committee; and
- Files copies of all information relating to the assurance check on the Provider's file.

Regional Manager (RM) Grants / Team Leader Grants

- Where required, requests follow up assurance checks.

Team Leader Grants / Operations Adviser Grants (Quality)

- Provides files for assurance checking on request; and
- Manages recommended remedial actions resulting from an assurance check when they relate to grants activities.

Business Development Support Group

- Annually generates a list of active Providers with standard granting files against set criteria (Sample).

Assurance Checking Process

9 The purpose of the post event ACP is to identify whether:

(a) the work invoiced by the Provider within the steps was actually completed;

(b) the work completed by the Provider was justified;

(c) the Provider advised the Agency of any change to the merits of the case;

(d) the Provider advised the Agency of any change to the financially eligibility of the legally aided person or to other conditions of the grant; and

(e) any disbursements incurred were necessary and billed on an actual and reasonable basis.

10 Further to the purpose of the ACP and in accordance with section 92(a) of the Act, where on reviewing a file, it comes to the AO's attention that the Provider may not have complied with the Act, their Contract, their professional obligations and the Agency's policy and procedures, the Team Leader Provider Services may refer the concern to Adviser Service Contracts for investigation.

11 Generally, the ACP has five stages; however this may vary where follow-up assurance checks are recommended. These stages clearly define the activities undertaken and the roles and responsibilities of participants within each stage.

12 Assurance checks are expected to be completed within 6 weeks from the initial selection of a file.[1]

13 The flowchart in Appendix One (ACP – flowchart) provides a visual overview of the ACP.

Stage 1 - Selection of Providers and files

14 The Team Leader Provider Services requests the Business Development Support Group to generate a list of active Providers annually from the period 1 July to 30 June using set criteria (sample). The criteria includes active Providers with 5 or more finalised standard granting files, excluding files selected by the internal auditor for auditing and files where the Provider used an agent. Generally the AO requests 7 files from each Provider in the same managing grants office.

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[1] This may differ where further information is requested or in the case of follow-up assurance checks.

Stage 2 - Scheduling assurance checks

15 Assurance checks are conducted on a monthly basis. Each month, the AO requests at least five randomly selected files per nominated Provider (as selected from the annual list), for assurance checking from the Team Leader (TL) of the managing Grants Office.[2]

Stage 3 - Checking files and identifying concerns and issues

16 The documents needed for checking may vary from file to file depending on the nature of the particular proceedings. Consequently, on receipt of files from the Grants Office, the AO initially checks the documents within each file against a checklist of documents and where required the AO requests additional documentation from the Provider for assurance checking. The request will provide details of each file selected for assurance checking and the length of time documents will be held.

Stage 4 - Reporting and Managing Issues and Concerns

Compliance and non-compliance

17 If the documentation (on file and requested) provides sufficient evidence that the Provider is compliant, no further action is required and the checking process is complete. The AO records the findings in the ACP database, returns the documentation to the Provider and returns the Agency file to the TL at the Grants Office.

18 If the documentation (on file and requested) provides sufficient evidence to suggest the Provider is not compliant, the Team Leader Provider Services enters the non compliance/Agency concern into the PMR and requests any additional documentation/explanation from the Provider.

19 If the Provider's explanation is sufficient and/or if the Provider has addressed the non-compliance/Agency concern, Team Leader Provider Services reminds the Provider of his/her obligations and returns any documentation to the Provider. The Team Leader Provider Services updates the PMR recording the findings and where appropriate any corrective action. The AO records the findings in the ACP database for analysis and reporting. The Team Leader Provider Services returns the Agency files to the RM and notifies the Grants Operations Adviser (Quality) and RM Grants of the concern/s. No further action is required and the checking process is complete

Unacceptable non-compliance

20 If the Provider's explanation is not sufficient, or there is continued non-compliance/Agency concerns, or unacceptable non-compliance or where a file and/or document indicates there is a significant potential risk to clients and/or the Agency, the Team Leader Provider Services refers the file to Adviser Service Contracts for investigation.

21 In these circumstances, the Team Leader Provider Services updates the PMR recording the initial findings, refers the file to Service Contracts for investigation, and records the findings in the ACP database for analysis and reporting. The Team Leader Provider Services returns the documents to the Provider with a letter advising the findings and referral of the concern/s to Adviser Service Contracts.

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[2] Note in accordance with Clause 4.20 and Clause 2 Schedule B Firm Undertaking of the Providers Contract for Services with the Agency, the Provider or firm where the Provider is employed is required to retain a copy of all legal aid files for 3 years.

22 The Adviser Service Contracts investigates the concern/s in accordance with the Investigating and Managing Provider Conduct process. The Adviser Service Contracts retains required information from the file/s and advises AO when the files can be returned to Grants and/or the Provider. The Team Leader Provider Services notifies the Grants Operations Adviser (Quality) and RM Grants of the concern/s and referral to Adviser Service Contracts.

23 On completion of the investigation, the Adviser Service Contracts notifies the RM Grants of the outcome and updates the PMR.

Stage 5 – Follow up assurance checks

24 In some instances the RM Grants or Adviser Service Contracts may request a follow-up assurance check. These instances include but are not limited to where previous assurance checks identify that requests for further information and explanations are regularly being made to the same Provider or if a Provider is being investigated.

25 The process for requesting files from Grants Offices and managing issues and concerns is the same as the monthly ACP.

Post Assurance Checking Process

26 Where findings have been referred to Adviser Service Contracts for follow up or where the Team Leader Provider Services has identified instances of unacceptable non-compliance, Adviser Service Contracts will assess the findings and determine appropriate Agency action. Possible Agency actions include, but are not limited to, monitoring of Provider's legal aid cases, request for a Special audit or investigation of the non-compliance/Agency concern/s in accordance with the Investigating and Managing Provider Conduct process.

Recording and Reporting

Documentation and Filing

27 A copy of all the information relating to the ACP is kept on the Provider's file.

28 The AO enters all findings related to the ACP into the ACP database for analysis and reporting.

Reporting

29 The Team Leader Provider Services reports the findings of any assurance checking to the Manager Provider Services on a monthly basis

30 The Manager Provider Services reports the findings of any assurance checking to the Audit and Risk Committee on a quarterly basis.

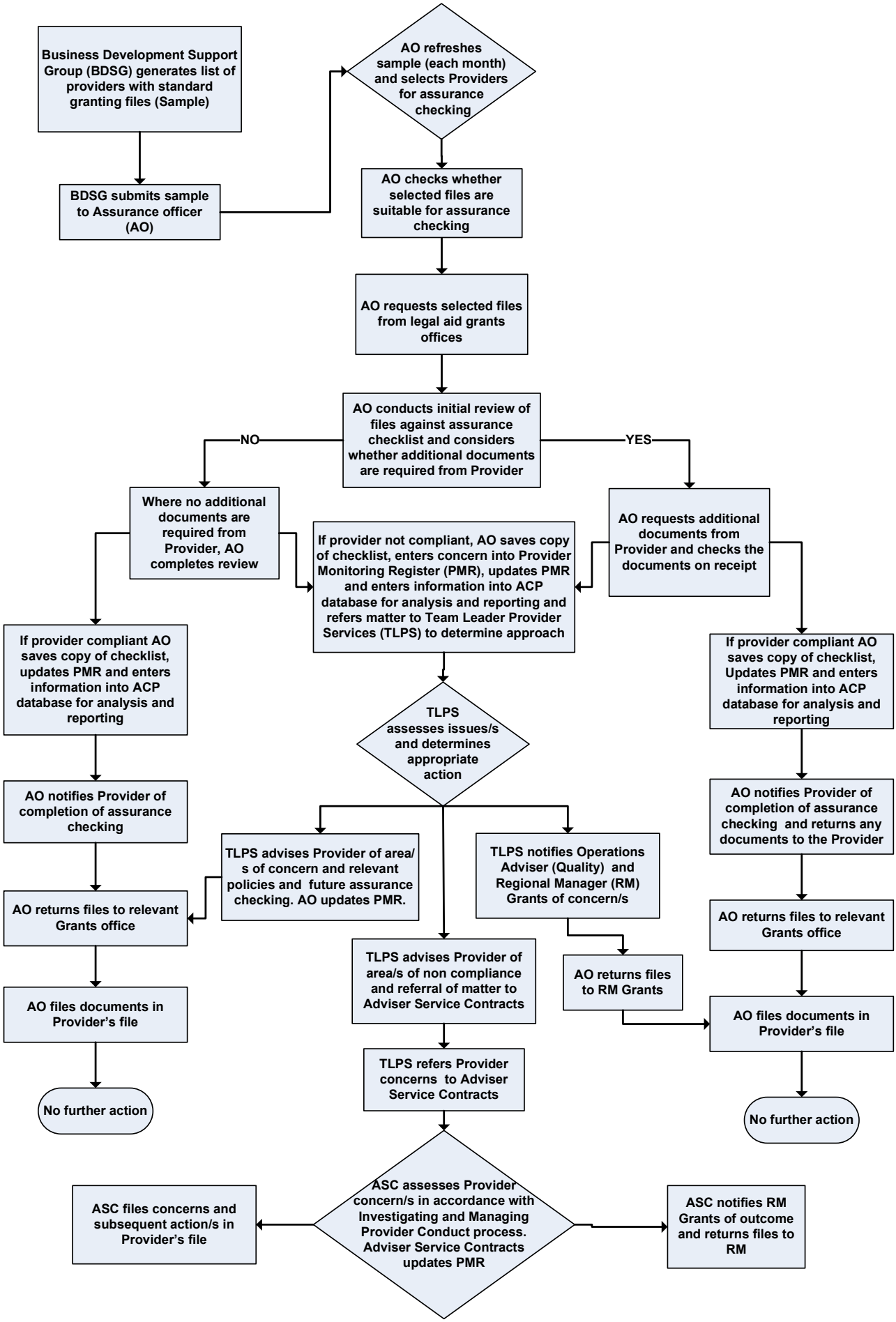
31 AO provides a summary of the results and of any action taken to the Grants Operations Adviser (Quality) on a monthly basis and as appropriate.

32 Assurance checking results may be published on the Agency website in an anonymous format.

Legislative Compliance

33 This process is governed by sections section 72 -73 and 92 (a) of the Legal Services Act 2000.

Relevant Policies and Procedures

- Investigating and Managing Provider Conduct process
- Listed Provider Audit process
- Suspension Consideration and Review process

Assurance Checking Process