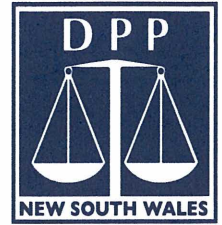


OUR REFERENCE

DIRECTOR'S CHAMBERS

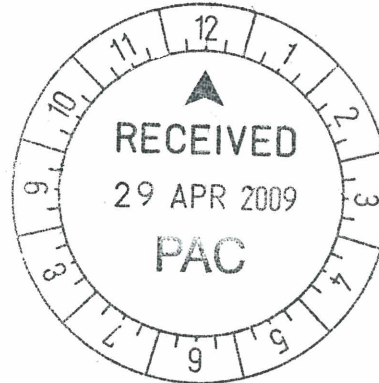


YOUR REFERENCE

DATE

24 April 2009

Mr Paul McLeay MP
Chair
Public Accounts Committee
Legislative Assembly
Parliament of New South Wales
Macquarie Street
Sydney NSW 2000



Dear Mr McLeay

**Re: Auditor-General's Report on Efficiency of the
Office of the Director of Public Prosecutions**

I refer to your letter dated 11 March 2008 to the Director of Public Prosecutions asking that he provide the Public Accounts Committee with a submission outlining the Office of the Director of Public Prosecutions (ODPP)' response to the above mentioned Report, tabled 27 March 2008. Mr Cowdery has asked me to reply.

The position of Executive Director was created as a result of the Report (page 90). I was appointed to the role on 27 October 2008 and am responsible for the implementation of all recommendations.

I believe that all recommendations of the Report have now been accepted by the ODPP. To my mind, the audit process has been effective and will benefit the agency and its program delivery.

Attached herewith is a schedule setting out the ODPP's response to each recommendation, including the status and actions to be taken.

If you have any questions regarding my submission, please contact me on 9285-2535.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nigel Hadgkiss'.

Nigel Hadgkiss
Executive Director

PERFORMANCE AUDIT – AUDITOR GENERAL’S RECOMMENDATIONS

IMPLEMENTATION OF RECOMMENDATIONS

RECOMMENDATION	ACTIONS TO DATE
<p><u>DEMONSTRATING EFFICIENCY</u></p> <p>1 Continue to build on recent improvements to its service and efficiency indicators:</p> <p>(a) Clearly articulate its services, and how these services contribute to the results it is trying to achieve</p> <p>(b) Develop indicators of quantity, timeliness, total cost and unit cost for each service</p> <p>(c) Include these indicators in its planning and internal reporting</p> <p>(d) Select from these a smaller number of ‘headline’ indicators to use in its reports to Parliament and to the Minister</p> <p>(e) Start building a data development agenda and report progress alongside its reporting on service performance (page 48)</p>	<ul style="list-style-type: none"> • 2008-2009 Results and Services Plan has been revised to include efficiency indicators as recommended by the Auditor General and to assist in benchmarking against other like agencies. • Several indicators are still under development, notably the indicators associated with Activity Based Costing. The ODPP is working on a process to electronically measure the relevant indicia, rather than the current method of gathering the information manually. This project is expected to be completed by the third quarter 2009. • Following the Budget Allocation, the ODPP will update indicators, service measures and service group expenses for its Results and Services Plan. • An examination of the ODPP’s Corporate and Business Plans is being conducted to ensure consistency with the Results and Services Plan. • ‘Headline indicators’ to be selected and used in ODPP Annual Report and reports to the Minister. • All data necessary for the Results and Services Plan indicators will be captured with modifications to the ODPP’s workflow system.
<p>2 Include in its reporting to the Attorney General and Parliament:</p> <p>(a) Its improved service and efficiency indicators</p>	<ul style="list-style-type: none"> • The indicia contained in the Results and Services Plan will form the basis for reporting in the ODPP’s Annual Report and Budget Paper 3 submission.

RECOMMENDATION	ACTIONS TO DATE
<p>(b) An explanation of why these indicators are important</p> <p>(c) Advice on what represents good performance</p> <p>(d) Comparisons over time, against benchmarks and to targets</p> <p>(e) Narrative to clearly explain performance (page 51)</p>	<ul style="list-style-type: none"> • The advice of an expert on Activity Based Costing is being sought to assess the ODP's implementation including the activities used, data capture methodology and appropriate sample size. A proposal from the Director, IT Risk Management, Internal Audit Bureau is expected shortly. • The costings of the ODP's witness assistance service are now the subject of a comprehensive monthly report to the AGD. • The ODP will update its case management system to facilitate the capture of time spent on interagency work. This will be implemented shortly.
<p>3 Collect accurate and comprehensive information about the costs of its services and activities and use this to assess its efficiency and cost effectiveness. In so doing the ODP should:</p> <p>(a) Bed down its prosecution service and activity costing methodology and ensure the costing process adopted is able to accurately identify the cost of delivering prosecution services</p> <p>(b) Apply appropriate costing methodologies to its other key services such as witness assistance, contribution to an efficient justice system, and advice to government on proposed legislation</p> <p>(c) Use service costing information to enhance its reporting (page 53)</p>	<ul style="list-style-type: none"> • Aspects of data definition, collection and analysis for the Results and Services Plan have been under development and are approaching finalisation. The reporting specifications of the Key Performance Indicators will then comprise the "Statistical Performance Management System". It is intended that this new system will permit electronic retrieval of all relevant data.
<p>4 Strengthen its data management practices to provide greater assurance that reported performance information is accurate and complete. In so doing the ODP should:</p>	

	ACTIONS TO DATE
<p>RECOMMENDATION</p> <p>(a) Clearly define and document roles and responsibilities for data collection, processing, monitoring and quality assurance, analysis and reporting for service performance indicators</p> <p>(b) Develop and document data quality standards and expectations, and clearly communicate these needs to responsible officers</p> <p>(c) Document data definitions and collection methods to ensure consistent measurement and calculation</p> <p>(d) Implement suitable data collection, processing and monitoring controls to ensure the accuracy, completeness and reliability of performance data</p> <p>(e) Implement appropriate training for staff who are responsible for collection, processing and reporting of performance information</p> <p>(f) Consider the development of a data dictionary in the longer term (page 55)</p> <p><u>IMPROVING INFORMATION MANAGEMENT</u></p> <p>5 Use service costing information to improve its service delivery, efficiency and resource allocation. In so doing the ODPD should use service costing information to:</p> <p>(a) Inform its planning, decision-making and cost management</p> <p>(b) Benchmark costs between different groups in the organisation and other agencies (page 62)</p> <p>6 Ensure staff keep the case management system (CASES) up to date so managers can use CASES for effective monitoring, reporting and decision making. CASES should be developed as the only repository for pro forma. In so doing the ODPD should:</p>	<ul style="list-style-type: none"> • As per Recommendation 3 above, implementation of the ODPD's Activity Based Costing project continues. • Present processes are being reviewed and made consistent across the Office.

RECOMMENDATION	ACTIONS TO DATE
<p>(a) Develop a regular, consistent and systematic approach to the review of solicitors' practices by Managing Lawyers</p> <p>(b) Review case-specific pro forma that are available on the Integrated Document Management System, ODPP intranet (DPP Net) and CASES and relocate all relevant pro forma to CASES (page 63)</p> <p><u>IMPROVING MANAGEMENT PRACTICES</u></p> <p>7 Improve its management of workload and workflow including Crown Prosecutors' workload and efficiency. In so doing the ODPP should:</p> <p>(a) Ensure that the systems for performance management in the Solicitor's Office are implemented consistently</p>	<ul style="list-style-type: none"> • The frequency of practice reviews has been negotiated with the PSA as part of the ODPP's Workload Management Agreement. The reviews are to be formally conducted every six months. • For the allocation of work, Managing Lawyers are required to examine a lawyer's practice and the progress of cases within it. As a result, reviews of workload and progress of matters within practices are conducted regularly through CASES. • Regular feedback about the quality of work (especially committal practices) is being received from the Pre-Trial Unit. • The Manager Admin Services is producing a monthly Operational Performance Report from statistical information provided by each operational unit regarding activity in Trials, Committals and Advising. Collating this information from CASES enables each operational unit to monitor and report on the progress of matters each month. • On 1 March 2008, an officer was transferred from the Court of Criminal Appeal Unit to the Information Management and Technology Branch for six months to undertake this particular task. The project has now been completed. • The ODPP has a performance management program in place for staff. • A database has been established to record the number of Performance Work Plans that are current across the Office. These Work Plans will be analysed and Managers consulted to ascertain whether there is consistency in reporting, feedback and the extent of compliance. This exercise is expected to be completed by the end of April.

RECOMMENDATION	ACTIONS TO DATE
<p>(b) Systematically analyse the workload and efficiency of Crown Prosecutors</p> <p>(c) Consider asking the Attorney General to amend the Crown Prosecutors Act 1986 to give the Director of Public Prosecutions power to suspend and dismiss Crown Prosecutors for serious neglect of duty. This would be subject to appropriate controls to ensure that the process is fair, transparent and affords natural justice (page 71)</p>	<ul style="list-style-type: none"> • Negotiations with the PSA are continuing in relation to workload management and monitoring of the Solicitor's Office. • The workload and efficiency of Crown Prosecutors is now an ongoing process undertaken by the Senior Crown Prosecutor, Deputy Senior Crown Prosecutors and the Professional Assistant to the Senior Crown Prosecutor. The latter oversees the workload and efficiency of the Crown Prosecutors within their areas of responsibility. • Changes are being implemented to the computerised system maintained by the Professional Assistant in Sydney for the briefing of trials to Crown Prosecutors. It is envisaged that these improvements will enhance workload and workflow management for Crown Prosecutors. It is also felt that the improvements will be of assistance in the briefing of Crown Prosecutors in Regional Chambers. • Steps to permit the Crown Prosecutors access to the ODP's computerised personnel management system is being undertaken. This action will assist those with managerial responsibilities in processing Crown Prosecutors' leave applications and hence monitor their availability for criminal trials. • Section 9A of the Crown Prosecutors Act 1986 has been amended accordingly. It passed both Houses on 4 December 2009, was assented to on 8 December and proclaimed on 12 December.
<p>8 Once the ODP has better information on the cost of prosecutions, use this to:</p> <p>(a) Improve its management arrangements</p> <p>(b) Inform a detailed, independent study into the feasibility of creating a number of smaller Crown Prosecutors' chambers in Sydney and 'pairing' these with groups of solicitors (page 75)</p>	<ul style="list-style-type: none"> • The current method of capturing information in the Activity Based Costing system is being examined and further work is necessary. An internal committee has been established to oversee this project. • Particular kinds of prosecutions (eg homicide, child sexual assault, fraud) are now approached in a 'pairing' fashion in that particular solicitors and Crown Prosecutors (wherever physically located) are identified as the most suitable recipients of such matters and habitually work together.

RECOMMENDATION	ACTIONS TO DATE
	<ul style="list-style-type: none"> • The Crown Prosecutors in the Criminal Court of Appeal Unit are working in a team approach with solicitors from that Unit. • The Sydney Crown Prosecutors have been divided into groups of about eight people under the leadership of a Deputy Senior Crown Prosecutor, and aligned with groups of solicitors. • With the move to new premises in Liverpool Street later this year, Crown Prosecutors will be in rooms in close proximity to their relevant Deputy Senior Crown Prosecutor. • By 27 March 2009, all Deputy Senior Crown Prosecutors had had productive meetings with their respective Managing Lawyers and discussed in detail how the pairing system will work. • Every effort is being made to encourage formal and informal contact between this 'pairing' of Crown Prosecutors and solicitors. • The grouping system will allow the ODPP to more accurately measure the amount of such interaction. The amount of contact will be closely monitored and reported upon. A system will be instituted whereby each Crown will note the details of every meeting with solicitors. Those events will be collated by their Deputy Senior Crown Prosecutor every three months. The formatting of a schedule to assist in that regard is underway. • The meetings are illustrating the kinds of factual and evidentiary problems that regularly occur in prosecutions. • Interactive teaching, specifically designed to address factual and evidentiary problems will be organised with relevant Crown Prosecutors talking to the solicitors. • The Deputy Senior Crown Prosecutor in charge of the Pre-Trial Unit is now visiting all of the managing lawyers with a view to further streamlining the work of the Unit. The Deputy Senior Crown is working to establish a degree of uniformity in the quality of Briefs and improving the speed with which they are received at the Unit.

RECOMMENDATION	ACTIONS TO DATE
<p>9 Document the rationale for the relative number of prosecutors and levels of experience required, and examine the risks and potential benefits of reducing the number of Crown Prosecutors and using the funds to create additional Trial Advocate, Senior Trial Advocate or Associate Crown Prosecutor positions (page 79)</p>	<ul style="list-style-type: none"> • All of the Deputy Senior Crown Prosecutors have been invited to contribute on how the pairing system can be improved and to demonstrate how it is working in practise. • A study will be undertaken of Crown representation and of the matching of the difficulty and complexity of trials with the categories of representation at Crown Prosecutor and Trial Advocate levels. • The documented criteria for the assignment of matters to Trial Advocates was reviewed recently. • The addition of a grade of prosecutor between Trial Advocate and Crown Prosecutor is agreed to and a Position Description is being prepared and evaluated. The study referred to above would assist in determining the number of such positions to be created and their desirable status (ie under the Crown Prosecutors Act of the Public Sector Employment and Management Act).
<p>10 Work towards adopting a 'cradle to grave' approach to case management and systematically set about standardising practices across the Solicitor's Office. In so doing the ODPP should:</p> <p>(a) Brief workflow analysts to undertake a detailed study to determine the pros and cons of moving from the current 'division of labour' approach toward greater continuity</p> <p>Examine opportunities to identify and implement common practices between offices and groups within the Solicitor's Office</p>	<ul style="list-style-type: none"> • The work of the Crown Prosecutors in the Pre-Trial Unit (PTU) is assisting the "cradle to grave" approach. • Every endeavour is being made to achieve continuity of Crown Prosecutors in matters, particularly sexual assault matters. • The 'pairing' of groups of Crown Prosecutors with groups of solicitors will assist to facilitate the approach. • Practices across the Solicitor's Office are now standard, subject only to minor variations caused by local conditions at regional offices. • Discussions underway with Internal Audit Bureau. • Common practices have been implemented with only minor differences to take account of local conditions.

RECOMMENDATION	ACTIONS TO DATE
<p>11 Adopt a more systematic approach to capturing and quantifying the impact of the practices of other agencies on its efficiency, and use the resulting information to support efforts to maximise the efficiency of the justice system. In so doing the ODPP should:</p> <p>(a) Develop more systematic approaches to capturing and quantifying the impact on its operations of court listing practices and the quality of NSW Police briefs</p> <p>(b) Use this information to support its efforts to reduce the impact of these on its efficiency</p> <p>(b) Report the impacts to the Attorney General, NSW Treasury and in its Annual Report (page 86)</p>	<ul style="list-style-type: none"> • Reviews of groups and regional offices are now placing a greater emphasis on identifying best practice and the development of a mechanism for evaluation for office-wide implementation. • Reviews are being conducted to identify deficiencies in the quality of police briefs. This information has been conveyed to police at ODPP-Police Liaison Group meetings. • The Solicitor to the DPP and Senior Crown Prosecutor became members of the Trial Efficiencies Working Group chaired by Justice Peter McClellan during the latter half of 2008. That Group's report was finalised and provided to the Attorney in late November 2008. • In the Local Court, the management of complex cases has been the subject of recent correspondence involving the ODPP, the Commonwealth DPP and the Chief Magistrate. There is a proposal to meet soon. • The results of the latest analysis have been raised with senior police at a recent Police Liaison Group Steering Committee meeting, which in turn will be raised and discussed at individual regional Police Liaison Group meetings. • The next Annual Report will mention the impact of the practices of other agencies on ODPP efficiency. • The Attorney General is briefed by the Director and Executive Director on a fortnightly basis. Treasury to be advised.
<p>12 Introduce a position of Executive Director with similar or greater status to the existing Deputy Directors, reporting directly to the Director of Public Prosecutions (page 90)</p>	<ul style="list-style-type: none"> • Cabinet endorsed Government support for the recommendation to fund and appoint a new position of Executive Director (CM 63-08). • The holder of this position was appointed on 28 October 2008. • Reporting to the Director of Public Prosecutions and Attorney General, the Executive Director is responsible for the efficient and economical management of the functions, resources and activities of the ODPP.

RECOMMENDATION	ACTIONS TO DATE
<p>13 Review other positions to rationalise management responsibilities within the new position of Executive Director (page 90)</p>	<ul style="list-style-type: none"> • An external consultant has been engaged to assist in this review. • Following an examination of the ODP's Finance Branch, the role of Chief Finance Officer has been upgraded to a new position of Financial Controller. This person will report direct to the Executive Director. Recruitment is currently underway. • The consultant has also reviewed the Asset and Facilities Management Branch. His findings have been deferred until November when the implications of the relocation of Head Office to a single site can be ascertained. • Personnel Services to be reviewed. • The review of the internal audit function and Information Management and Technology Branch will be undertaken by the Internal Audit Bureau in late April.
<p>14 Provide better information on costs and services to the Board so it can more effectively monitor efficiency and make realistic and practical improvement recommendations (page 90)</p>	<ul style="list-style-type: none"> • Improved and increased presentation of information to the Board is underway, particularly as a result of addressing Recommendation 1 to 6 "Demonstrating Efficiency" and "Improving Information Management".
<p>15 Appoint an independent Chair to the Audit and Risk Management Committee (page 90)</p>	<ul style="list-style-type: none"> • Two independent members were appointed to the Audit and Risk Committee on 16 October 2008. They are Ms Patricia Azarias and Mr Jon Isaacs. One of these members will chair the Committee on a one-year rotating basis.
<p>16 Conduct regular surveys of staff satisfaction and implement a systematic process to address staff concerns and improve morale (page 90).</p>	<ul style="list-style-type: none"> • Personnel Services Branch is currently examining the results of the 2004 staff survey to ascertain action taken to date, identify outstanding issues, and consider the key issues that need to be addressed. • The Office has commenced consultation with three external staff survey providers and the PSA. A submission will be taken to the Management Committee. • A number of the issues arising from the last staff survey related to the accommodation at Head Office. The next survey will be launched following the move to new premises later this year.

RECOMMENDATION	ACTIONS TO DATE
	<ul style="list-style-type: none"> • The ODPP's staff exit questionnaire has been revised to ensure that results are more meaningful to the Management Committee. Questions have been included to ascertain if issues raised in the last staff survey are ongoing. • An entry questionnaire for new staff has been developed and will be piloted in the next quarter.