



THE AUDIT OFFICE
OF NEW SOUTH WALES

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Mr Paul McLeay MP
Chair
Public Accounts Committee
Legislative Assembly
Parliament House, Macquarie Street
SYDNEY NSW 2000



19 March 2008

Dear Mr McLeay

**Examination of Auditor-General's Performance Audit Report
Distributing Legal Aid in NSW**

We have reviewed the submission provided by Legal Aid NSW concerning the recommendations made in our performance audit report.

The Legal Aid's response is consistent with advice we received at the conclusion of the audit. Of the 15 recommendations, Legal Aid NSW accepted seven, indicated two were under consideration and rejected six. We are pleased to note progress being made by Legal Aid NSW with the recommendations, both accepted and under consideration. We comment below on recommendations rejected by Legal Aid NSW.

Three of the recommendations rejected were on:

- assessing the delivery of services against targets,
- possible service gaps between resources, and
- services and measuring processing times.

These three recommendations centre on the Legal Aid's ability to influence the supply of services by making policies that define to whom and in what quantities services will be delivered. The supply of services is obviously limited by the level of resources available to Legal Aid NSW.

We stand by our recommendation that performance against service targets should be reported (page 23 of our report). These targets would normally be used to support resource allocations and performance against them is an essential element of accountability.

Legal Aid NSW rejects measuring and reporting gaps between available resources and demand for its services (page 24). Legal Aid NSW cites 'complexity of the interactions between legislation, target groups, unmet legal demand, service levels and funding' as making the task almost impossible. We see the Legal Aid's responses to our other recommendations as an acceptable answer to this recommendation. Those responses are the likelihood of Legal Aid NSW undertaking access and equity reviews (page 24), research into unmet demand for its services (page 24), benchmarking of its means test (page 31) and better monitoring of applications refused (pages 37 and 38).

We recommend that there should be measuring and reporting by Legal Aid NSW of the time taken to process cases (page 40). Legal Aid NSW states in its response that this is best done by the courts. We continue to support the measuring and monitoring of processing times as an internal measure for Legal Aid NSW and one that helps indicate productivity and, in some cases, effectiveness.

We stand by the recommendation that Legal Aid NSW considers engaging peers to review its operation (page 37). Peer reviews are an accepted means of providing quality assurance in other professional offices, including the Audit Office.

Legal Aid NSW indicates that it will not make a statement about addressing the unmet demand identified in the 2003 Civil Law Report (as recommended on page 26). However, we note in the Legal Aid's response that the Board is refocusing on civil law needs and that Legal Aid NSW increased its civil law services to clients by 14.2 per cent during 2006-07. (See page 17 of their Annual Report.)

To put the above comments in context, it is appropriate to quote from our Report's opinion: 'We found Legal Aid NSW to be performing well in delivering legal aid service. It has maintained and expended services despite funding pressures and increasing demand.'

Legal Aid NSW made comment about agencies being given adequate notice to prepare for a performance audit. We acknowledge that the advance notice provided to Legal Aid NSW was shorter than normal. The situation arose because of other programmed audits failing to commence as scheduled. This necessitated an audit being taken up from our 'reserve list'. We very much appreciated the professionalism of Legal Aid's executive in meeting us promptly.

Attached is a table setting out the recommendations and our comments on Legal Aid's responses. Please note that our comments are provided without any additional substantive work by us.

I plan to forward a copy of this correspondence to the Acting Chief Executive Officer of Legal Aid NSW.

I am very happy to provide any further assistance the Committee may need in completing its examination.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Peter Achterstraat', with a stylized flourish at the end.

Peter Achterstraat
Auditor-General

Attach

Audit Office comment on Legal Aid's recent advice of proposed action

Distributing Legal Aid in New South Wales

Recommendation	Progress addressing issue	Additional Audit Office comment
Consider extending the range of its toolkits and posters (page 18)	Examples provided of initiatives provided and action continuing.	-
Consider improving the design of its internet site (page 18)	Examples provided of initiatives provided and action continuing.	-
Consider conducting periodic whole-of-Commission access and equity reviews of its existing services (pages 22)	Progress is dependent on assessment of viability of conducting access and equity reviews.	-
Seek funds for research into unmet demand for existing services (page 24)	Advice that research project has commenced.	-
Make a statement on addressing areas of unmet demand identified in the 2003 Civil Law Review Report (page 26)	Legal Aid NSW advises that they are targeting this area of need.	Although Legal Aid NSW rejected recommendation, they are targeting many of the areas identified in the 2003 review.
Extend its reporting to include the number of services delivered against targets (page 23)	Legal Aid NSW rejects recommendation and is not taking action.	Considered necessary to support resource allocation and accountability for their use. (See comment in covering letter.)
Benchmark its means test against national levels (page 31)	Action appears complete.	-
Consider measuring and reporting gaps between available resources and demand for its services (page 34)	Legal Aid NSW rejects recommendation.	Audit Office observes that responses to other recommendations will address gaps.
Utilise new systems to better cost and benchmark activities (page 35)	Legal Aid NSW appears to be actively pursuing a solution.	-
Utilise new systems to better monitor applications and refusals (pages 37 and 39)	Legal Aid NSW expects new systems to be in place by end calendar 2008.	-
Expand client surveys to its representation services (page 37)	Still under consideration; Legal Aid NSW to trial a survey in civil law.	-

Recommendation	Progress addressing issue	Additional Audit Office comment
Consider engaging peers to review its operations (page 37)	Legal Aid NSW rejects recommendation; no action proposed by them.	Audit Office believes it is an acceptable practice for professional offices. (See comment in covering letter.)
Measure and report the time taken to process cases (page 40)	Legal Aid NSW rejects recommendation; no action proposed by them.	Audit Office believes this is a necessary internal measure for Legal Aid NSW. (See comment in covering letter.)
Consider the option of review of appeals by a member of a review panel rather than an appeal committee (page 42)	Legal Aid NSW rejects recommendation, after consideration of option.	We based our recommendation on practices in Victoria and Queensland. It provides more flexibility where single reviewers can consult other panel members
Consider reporting the time taken to assess appeals (page 42)	Review in progress and appear likely to accept recommendation.	-