

OUR REFERENCE

## DIRECTOR'S CHAMBERS

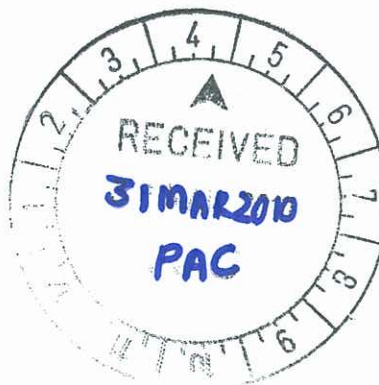


YOUR REFERENCE

DATE

29 March 2010

Mr Paul McLeay MP  
Chair  
Public Accounts Committee  
Legislative Assembly  
Parliament of NSW  
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 23 September 2009. Attached herewith is an update on progress in implementing the ODPP's response to the Auditor-General's recommendations.

Should you require any further information, please do not hesitate to 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  
March 2010**

<b>RECOMMENDATION</b>		<b>ACTION TO DATE</b>
<b><u>DEMONSTRATING EFFICIENCY</u></b>		
<b>1</b>	Continue to build on recent improvements to its service and efficiency indicators.	<ul style="list-style-type: none"> <li>Electronic capture and reporting of the indicators for the Results and Services Plan was implemented on 10 December 2009.</li> </ul>
<b>2</b>	Include in its reporting to the Attorney General and Parliament improved service and efficiency indicators.	<ul style="list-style-type: none"> <li>All recommendations from the AG regarding performance assessment and reporting, with the exception of Crown Prosecutors, is being addressed in the ODPP Annual Report and Results and Services Plan.</li> <li>Crown Prosecutor performance currently being addressed.</li> </ul>
<b>3</b>	Collect accurate and comprehensive information about the costs of its services and activities and use this to assess its efficiency and cost effectiveness.	<ul style="list-style-type: none"> <li>Progress being made by Activity Based Costing (ABC) Working Group. Specifications being reviewed, external systems being considered and progressing towards completion of first phase in a three phase project.</li> <li>Last meeting of the Working Group, comprising management, Crown Prosecutor and PSA held on Friday 26 March 2010.</li> <li>Project completion targeted for 30 June 2010.</li> </ul>
<b>4</b>	Strengthen its data management practices to provide greater assurance that reported performance information is accurate and complete.	<ul style="list-style-type: none"> <li>Committee established to look at business rules for all areas of work.</li> <li>Working parties have been allocated specific areas to examine workflows. Progress in Court of Criminal Appeal area – workflow developed, work continuing in other areas.</li> <li>Committee meets monthly, last meeting 17 March 2010.</li> </ul>
<b><u>IMPROVING INFORMATION MANAGEMENT</u></b>		
<b>5</b>	Use service costing information to improve ODPP service delivery, efficiency and resource allocation.	<ul style="list-style-type: none"> <li>Reports being developed as required by management. This is an ongoing project.</li> </ul>

6	<p>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.</p>	<ul style="list-style-type: none"> <li>• Templates completed.</li> <li>• Results of a recent audit reveal greatly improved compliance in maintenance of the case management system (CASES).</li> <li>• CASES is now the only repository for pro forma.</li> <li>• Practice reviews are conducted regularly as an adjunct to the allocation and disposition of work.</li> </ul>
7	<p>Improve its management of workload and workflow including Crown Prosecutors' workload and efficiency.</p>	<ul style="list-style-type: none"> <li>• Performance management plans are in place for staff including Trial Advocates in the Solicitor's Office.</li> <li>• Enhancement of the systems for performance management is linked to the Business Rules Project (see 4 above).</li> <li>• As per the AG's recommendation, Crown Prosecutors are now required to report on data as per their counterparts in Victoria.</li> <li>• Crown Prosecutors are required to give a detailed account of the hours spent in total on a particular matter they are briefed with. This is in line with ABC. To date it has been applied to 15% of the matters briefed. ABC is now moving to 100% coverage. This material is available to the Senior Crown Prosecutor and his professional assistant to assess with precision the time that each prosecutor is devoting to briefs.</li> <li>• The Senior Crown, Deputy Senior Crown (Appeals) and Deputy Senior (Sydney) are particularly interested in cases where the Court of Criminal Appeal (CCA) has been critical of the performance of a particular Trial Crown. In such a case one of the above Senior Crowns will talk with the Crown and go through in detail the matter criticised. If possible all efforts will be made to have the same Crown have carriage of any new trial that has been ordered by the CCA. Such trial will be undertaken with the close counselling of the relevant Senior Crown.</li> <li>• Arrangements are now in place to address those occasions during the year when there is a much higher demand for Crown Prosecutors, eg school holidays. Leave applications are being scrutinised to maximise the number of Crowns available at these times.</li> </ul>

**Once the ODPP has better information on the cost of prosecutions, use this to improve its management arrangements.**

- Crown Prosecutors are now grouped with a Deputy Senior Crown Prosecutor as leader in Sydney. Each group of Crown Prosecutors have been aligned with a group of solicitors.
- The Solicitor's Office and Crown Prosecutors are now within the same building which has meant solicitors have much easier access to Crown Prosecutors for advice and mentoring.
- Although there is the "pairing" of groups, solicitors are encouraged to seek the advice from any of the Crown Prosecutors.
- Crown Prosecutors continue to be active in the professional development of solicitors. For instance, Crown Prosecutors are participating in conferences with solicitors and in the presentation of advocacy workshops for solicitors.
- All Deputy Senior Crown Prosecutors continue to have productive meetings with their respective Managing Lawyers and are contributing to the pairing system.
- Every effort is being made to encourage formal and informal contact between this 'pairing' of Crown Prosecutors and solicitors.
- Meetings address the kinds of factual and evidentiary problems that regularly occur in prosecutions.
- Interactive teaching, specifically designed to address factual and evidentiary problems has been organised with relevant Crown Prosecutors talking to the solicitors.
- The Deputy Senior Crown Prosecutor in charge of the Pre-Trial Unit continues to visit 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 currently received at the Unit.

<p><b>9</b></p> <p><b>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.</b></p>	<ul style="list-style-type: none"> <li>• Documented criteria for the assignment of matters to Trial Advocates has been finalised.</li> <li>• The addition of a grade of prosecutor between Trial Advocate and Crown Prosecutor is agreed in principle.</li> <li>• A draft submission on the establishment of an intermediate level of trial prosecutor submitted to AG in February 2010. On 5 March 2010 he provided some preliminary observations. Views are currently being sought and considered across the ODPP.</li> </ul>
<p><b>10</b></p> <p><b>Work towards adopting a 'cradle to grave' approach to case management and systematically set about standardising practices across the Solicitor's Office.</b></p>	<ul style="list-style-type: none"> <li>• The work of the Crown Prosecutors in the Pre-Trial Unit (PTU) continues to assist the "cradle to grave" approach.</li> <li>• Every endeavour is being made to achieve continuity of Crown Prosecutors in matters, particularly sexual assault matters.</li> <li>• The 'pairing' of groups of Crown Prosecutors with groups of solicitors is assisting the approach.</li> <li>• Continuity of solicitor from cradle to grave is being achieved in targeted matters, particularly child sexual assault and sexual assault prosecutions.</li> <li>• Cradle to grave cannot be achieved in all matters, particularly in view of the listing practices at some courts. Judges are not taking into account Crown Prosecutors' availability as they are of the view that another Crown can be briefed.</li> <li>• Amendments to Criminal Procedure Act included case management provisions. One optimal outcome is that 'cradle to grave' allocation of matters may become real possibility, at least in many cases. The provisions will change ODPP practices to ensure solicitor with carriage of the prosecution retains the matter until the Notice of the Prosecution Case is settled. In selected cases it will be necessary for the same solicitor to also instruct at trial. The fact that Crown Prosecutors must access briefs at a much earlier time and make definite decisions about the matter also provides the opportunity for Crown Prosecutors to seek to retain those matters for trial. Other factors may hinder this course</li> </ul>

		<p>(ie availability of resources) but it is the present intention of the Office to implement best practice to aim for these outcomes.</p> <ul style="list-style-type: none"> <li>• A number of the Deputy Senior Crown Prosecutors are becoming fully involved with homicide cases at an early stage (ie pre committal hearing) by virtue of the compulsory criminal case conferencing system. This allows Defence counsel and Crown Prosecutor to meet with a view to seeing whether there is any prospect of taking a plea to a lesser charge or to the existing charge. Even if a plea is not forthcoming there is often a resolution of what will be in contest and what will not. The Deputy Senior Crowns have welcomed and embraced this initiative.</li> <li>• Practices across the Solicitor's Office are now standard, subject only to minor variations caused by local conditions at regional offices. The Business Rules project (item 4) will assist further in the standardisation of information gathering.</li> </ul>
11	<p><b>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.</b></p>	<ul style="list-style-type: none"> <li>• A review has been conducted to identify deficiencies in the quality of police briefs. This information has been conveyed to police at ODPP-Police Liaison Group meetings.</li> <li>• The Office has regular meetings with Police in relation to operational issues. Police management has responded by issuing directions to investigators, crime managers and brief handling managers accordingly.</li> <li>• Training of investigators by senior solicitors is regular and ongoing to improve the quality of investigations.</li> <li>• A quality rating for briefs of evidence received has been added to CASES in order to better inform the Office and police of systemic or particular problems in relation to brief quality. The system began in July 2009 and as at 1 March 2010, 80% of committal briefs received required further investigation. This figure will enable comparisons into the future.</li> <li>• The Office has been liaising with the Chief Magistrate in relation to court appearance and the streamlining of brief service orders made by the court. A new Practice Note was issued on 4 January 2010.</li> </ul>

		<ul style="list-style-type: none"> <li>• Liaison is expected in relation to an on line court system in this financial year.</li> <li>• The Solicitor to the DPP and Senior Crown Prosecutor were members of the Trial Efficiencies Working Group chaired by Justice Peter McClellan. That Group's final report was submitted to Government in March 2009. Legislation to give effect to the report's major recommendations for improved Case Management was enacted and commenced on 1 February 2010. Practice directions, instructions and templates have been circulated to all legal staff and were the subject of a presentation at the Solicitors' Conference in late December 2009. A similar presentation will be made at the forthcoming Crown Prosecutors' Conference.</li> <li>• A proposal by this Office and others to generate an expansion of the jurisdiction of the Local Court and thereby streamline the nature and volume of trial work in the District Court was referred to the Sentencing Council by the Attorney General last year. The Council has concluded that the proposal has far-reaching consequences and should not be undertaken without further detailed consideration.</li> </ul>
12	<p><b>Introduce a position of Executive Director with similar or greater status to the existing Deputy Directors, reporting directly to the Director of Public Prosecutions.</b></p>	<ul style="list-style-type: none"> <li>• Completed.</li> </ul>
13	<p><b>Review other positions to rationalise management responsibilities within the new position of Executive Director.</b></p>	<ul style="list-style-type: none"> <li>• Reviews of the internal audit function and Corporate Services have been undertaken.</li> <li>• Recommendations are being acted upon.</li> </ul>
14	<p><b>Provide better information on costs and services to the Board so it can more effectively monitor efficiency and make realistic and practical improvement recommendations.</b></p>	<ul style="list-style-type: none"> <li>• Improved financial reporting underway following appointment of new General Manager Corporate/Financial Controller.</li> <li>• Financial Reports to the Board have been transformed and now focused on key financial issues. They also provide information in an easy to read format with graphic presentation of ODPP services and costs.</li> </ul>
15	<p><b>Appoint an independent Chair to the Audit and Risk Management Committee.</b></p>	<ul style="list-style-type: none"> <li>• Completed.</li> </ul>

16	<p>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"> <li>• Proposals and quotes received from six providers. One found to be the most favourable and recommendation forwarded to Director.</li> <li>• Anticipated survey will be undertaken in April 2010.</li> </ul>
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