

Response to Audit Office Recommendations in the Performance Audit on the Distribution of Legal Aid

Update 10 June 2008

Recommendation	Accepted/ Rejected	Proposed Action
The Commission should: Consider extending the range of its toolkits and posters (page 18)	Accepted	As part of its 2007-08 Corporate Plan, Legal Aid NSW committed to enhancing its range of toolkits and other publications. To date, one new toolkit (the <i>Discrimination toolkit</i>) and three new publications (<i>Turning The Tide: Storms, Floods, Insurance and You</i>; <i>Problems paying your mortgage? Things you can do</i>; and <i>They are trying to take my home. Things you can do</i>) have been developed. A further four new toolkits are in development being a: • Mortgage repossession toolkit; • Pleading guilty to drink & drug driving toolkit; • Do it yourself divorce toolkit; and • Prisoners' toolkit. Legal Aid NSW has also commenced the production of DVD's and downloadable audio visual files that will educate the community at large about specific legal issues. The first of these is a 6 DVD set targeting the provision of legal advice and education to prisoners. The DVD's will be reinforced by work books and face to face legal advice. The program will be trialled in six jails with the cooperation of the Department of Corrective Services, Community Legal Centre's, Law Access and the Aboriginal Legal Service. The program aims to meet the legal needs of prisoners and educate prison staff. Prisoners have been identified as having a variety of legal needs, particularly in relation to Civil Law issues, that were previously not addressed. Posters have been produced promoting Civil Law and Family Law advice for Aboriginal people, and to advertise Legal Aid NSW's Homeless Person's Legal Service and Older Persons Legal and Education program. In addition, Legal Aid NSW has undertaken a 're-branding' exercise to ensure that all posters, brochures and other publications are clearly recognisable as belonging to Legal Aid NSW. This new 'brand' will be rolled out across all publications as they are due for reprinting and has now been rolled out across 30 different resources. This process will assist in establishing legal aid

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		publications as an authoritative source of legal information, and will assist clients and potential clients to identify the full range of information produced by Legal Aid NSW.
Consider improving the design of its internet site (page 18)	Accepted	As part of its 2007-08 Corporate Plan, Legal Aid NSW has committed to develop an intranet and internet strategy and an Intranet/Intranet Steering Committee has been established. Development of the strategy is well advanced through the Steering Committee, and a person with expertise in designing internet sites within government has been recruited to undertake the hands on project management and redesign. In the interim, the publications micro-site has been redesigned so information is more accessible, and this went live in June 2008. Legal Aid NSW has also commenced an eLearning project that will provide clients with online content and community legal education resources including the ability to book in to scheduled face to face community legal education sessions. Development of the Learning Management System which underlies the eLearning project has commenced, and the project is expected to go live early in the 2008-09 financial year.
Consider conduction periodic whole-of-Commission access and equity reviews of its existing services (page 24)	Under Consideration	Legal Aid NSW considers that existing service planning strategies provide ongoing review of access and equity issues. Nonetheless, Legal Aid NSW is considering the viability of conducting access and equity audits.
Seek funds for research into unmet demand for existing services (page 24)	Accepted	In cooperation with National Legal Aid, Legal Aid NSW has engaged the Law and Justice Foundation to conduct a national legal needs survey. It is believed that this is the first comprehensive survey of legal needs in Australia, and it is hoped that the information provided by the survey will be used to inform legal aid policy, service delivery and funding reform for many years to come at local, Governmental and inter-Governmental levels. Initial results from the survey are expected towards the end of calendar year 2008, with more detailed outcomes available in late 2009.

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Make a statement on addressing areas of unmet demand identified in the 2003 Civil Law Review Report (page 26)	Rejected	Legal Aid NSW's Board has accepted the recommendations in the Review Report that it has agreed to implement in the short to medium term, and promulgated those decisions. Any further decisions as to implementing the Review's recommendations will be a matter for the Board. It should be noted that the Board's Civil Law Sub-Committee has recently been reformed, and it is expected that the Review Report will be revisited in the context of the outcomes of the national legal needs survey (referred to above). Two further reviews into the Civil Law services provided by Legal Aid NSW have also been commissioned, being: • A review of Civil Law Outreach services provided to Aboriginal Legal Services; and • A Civil Law Policy Review. Recommendations from these reviews will be considered in due course.
Extend its reporting to include the number of services delivered against targets (page 23)	Rejected	By the nature of its business, Legal Aid NSW attempts to satisfy all demand for its services to the extent possible within its finite resources. Nevertheless, demand for the services provided by Legal Aid NSW is driven by a wide range of factors which are largely outside of its control. A failure to meet predetermined service volume targets may merely reflect lower than expected numbers of people seeking assistance. This could be due, for example, to a decline in arrests made by police, a reduced incidence of family breakdown or any number of other causes. For these reasons, a comparison of actual service volumes against targets would not provide useful information about whether Legal Aid NSW had succeeded in meeting the needs of its target client groups for legal assistance. The setting of targets simply provides an artificial measure of achievement which will not assist users of the information in understanding whether or not demand has been satisfied. For example, it is possible to have provided a service to 100% of clients who sought the service yet not met a target that was set. In the view of Legal Aid NSW, this does not mean that performance was inadequate.

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Benchmark its means test against national levels (page 31)	Accepted	Legal Aid NSW monitors the means test in other States and Territories where it is comparable (Queensland and Tasmania use a different means test). The ability of Legal Aid NSW to match the means tests in other States and Territories depends on a variety of factors, but particularly on funding, demand for services and the variety of services offered. Different means tests, legal aid policies and services exist across the country. In September 2007 Legal Aid NSW increased its means test to take account of changes in the cost of living. Comparisons were provided to the Board with the means tests in Victoria, the ACT and Western Australia.
Consider measuring and reporting gaps between available resources and demand for its services (page 34)	Rejected	To be able to produce this measure, Legal Aid NSW would first need to be able to define the demand for its services, and compare this demand to the level of funding provided for specific initiatives. This is an almost impossible task given the complexity of the interactions between legislation, target groups, unmet legal need, service levels and funding.
Utilise new systems to better cost and benchmark activities (page 35)	Accepted	Legal Aid NSW is developing a new grants management system (ATLAS) and has recently implemented a case management system (CASES). When fully implemented and integrated along with the TRIM document management system, these systems will provide Legal Aid NSW management with better information on both cost and activity levels than is currently available. The systems are expected to be fully implemented and integrated towards the end of the 2008 calendar year. Currently Legal Aid NSW has as similar costing information available as other government departments, and records its costs at a cost centre and account code level in a commercial finance system (SAP). Legal Aid NSW engaged Deloitte to review its costing of in-house services as a result of the audit recommendation. Deloitte's suggested approach was to implement a survey methodology that would see an annual survey of the work undertaken by all staff. Legal Aid NSW will trial the proposed methodology during 2008-09.
Utilise new systems to better monitor applications and refusals (pages 37 and 39)	Accepted	As discussed above, Legal Aid NSW is currently developing a new grants management system (ATLAS) which will facilitate improved capture of information about applications and refusals for grants of legal aid. The ATLAS system is anticipated to be fully operational towards the end of the 2008 calendar year.

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Expand client surveys to its representation services (page 37)	Under Consideration	It is considered extremely difficult to gain useful information about representation services from a client survey, particularly with respect to criminal law. Criminal law clients are often already in custody, and are unlikely to know whether they have received a quality legal service or not. Court outcomes are considered likely to significantly skew client opinions. In 2008, Legal Aid NSW's biannual client survey will focus on civil law clients, and will include representation services. This survey will better inform Legal Aid NSW as to whether surveys of representation services of criminal law (and family law) clients will be meaningful.
Consider engaging peers to review its operations (page 37)	Rejected	Peer review for quality assurance purposes is not common within the legal profession. Legal Aid NSW may from time to time engage professional organisations to undertake such reviews, and the Commission's existing Internal Audit Program provides some assurance in this area.
Measure and report the time taken to process cases (page 40)	Rejected	This measure is more appropriately captured and reported by the Courts. The time taken to process cases is not within Legal Aid NSW's control, and as such it does not inform users of the information about Legal Aid NSW's efficiency or effectiveness.
Consider the option of review of appeals by a member of a review panel rather than an appeal committee (page 42)	Rejected	The structure of Legal Aid Review Committee's is determined by the Legal Aid Commission Act 1979, and any changes to this structure are within the purview of Parliament and not Legal Aid NSW. However, it is Legal Aid NSW's view that a single member appeal process is less robust than the current process, and would result in a less consistent application of Legal Aid NSW's policies.

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Consider reporting the time taken to assess appeals (page 42)	Accepted	An internal review of the process for lodging and managing appeals to the Legal Aid Review Committee is in progress. Upon completion of the review and implementation of the likely recommendations it is expected that Legal Aid NSW will be able to report on the time taken for the appeals process. It is noted that the time taken for appeals is influenced by a number of factors, often including awaiting further information from the appellant. Stage one of the review is considering the key areas of the: • Appeal model; • Administration and processing of appeals; and • Legal Aid Review Committee Secretariat. Stage two of the review is considering the key areas of: • The reporting process; • A decisions database; and • The development of a training module. The review will be completed and recommendations implemented in the 2008-09 financial year.