

PERFORMANCE AUDIT IN BRIEF

Distributing Legal Aid in New South Wales



THE AUDIT OFFICE
OF NEW SOUTH WALES

About the audit

The role of the Legal Aid Commission of NSW (the Commission) is to make legal aid accessible to as many disadvantaged people as possible.

The audit's objective is to assess if legal aid is properly distributed to those who are entitled to it. To assess the Commission against the objective, the audit focused on two lines of inquiry: Is information about eligibility for legal aid clear and well communicated? Are decision-making processes sound?

Audit opinion

We found the Commission to be performing well in delivering legal aid services. It has maintained and expanded services despite funding pressures and increasing demand.

Overall, we found the Commission's practices of making people aware of legal issues and its services to be comprehensive. Communication is via brochures, telephone and internet. We also found its processing of applications for legal aid to be sound.

The Commission presently conducts reviews of the services it provides to its key target groups. However, we believe it can further improve how it understands and reports the delivery of its services. We suggest that the Commission undertake periodic agency-wide access and equity reviews to better understand its existing services and unmet demand across its target areas.

An important pressure on the Commission's decision making processes has been funding. Despite funding constraints, the Commission's civil law services are more wide-ranging than other commissions in Australia. However they have not increased to the same extent as the Commission's criminal and family law services over the last ten years.

A recent easing in funding pressures has meant that the Commission was able to relax its means test for legal representation in 2005 for the first time in ten years. The income tests have now been increased and have caught up.

However, asset tests are at levels lower than Centrelink full benefit thresholds and those in some other legal aid commissions. As the population ages this is likely to affect those, especially in Sydney, who are income poor but relatively asset rich.

Further improvements in the Commission's decision making will be dependent on the development and implementation of two new information systems by the Commission - a legal aid grants management system and a case management system. These new systems will allow the Commission to better capture and report on cost and productivity. This will support better resource management and benchmarking.



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Further information

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Internet site: www.audit.nsw.gov.au

Key findings

Is information about eligibility for legal aid clear and well communicated?

The Commission's brochures cover a range of relevant topics and provide essential information about legal issues and the availability of legal aid. There is room for improvement in toolkits to better support legal advice.

The Commission's internet site is information rich and includes a means test indicator. It could be more user friendly for members of the public.

The LawAccess phone line is an effective gateway to legal aid services.

The Commission has initiated successful reforms to make its services more accessible. One of these initiatives is the Co-operative Legal Services Delivery Model being implemented in regions.

The Commission targets particular groups to meet their specific needs. For example, a review into civil law services has resulted in the Commission taking actions to service unmet demand that was identified. But at this point the Commission has not conducted an all embracing access and equity review across all programs at once to gain a more complete picture of access and equity issues.

Are decision making processes sound?

People in NSW are able to receive legal aid in a greater range of situations than in other states and territories. However the eligibility test thresholds for legal aid in NSW are still below those in some other commissions. But they are catching up.

The Commission's policies are shaped by balancing service demand and funding provided by the NSW and Commonwealth governments. Much of this demand

results from new government policies. An example is the appointment of more Department of Community Service care and protection officers resulting in more children's cases for the Commission. However, the Commission does not report the gap between demand for its services and its funding levels. This has lessened public scrutiny of the impact of the Commission's policy decisions such as setting eligibility tests as described above.

The rates and reasons for refusals of legal aid are monitored as well as the current systems allow. New systems are under development and will help with recording of decisions and review of compliance.

The Commission reports to its Board processing times for applications. It records times for cases from commencement to completion, but does not report this.

Measuring case file loads is currently the Commission's favoured way of managing lawyers with large work loads. Improved time and cost recording would provide additional measures to manage, monitor and report performance.

Summary of recommendations

We made a number of recommendations to:

- make information clearer about legal aid
- better understand target groups and demand for services
- be more accountable for entitlement tests and resources
- have more consistent and better documented decisions.