

3 August 2017

Ministry of Justice
DX SX10125
Wellington

Attention: Penny Hoy-Mack, Manager, Legal Aid Provider Services

By email: penny.hoy-mack@justice.govt.nz

Dear Penny

RE: Legal Aid Audit Policy – amendments to allow greater use of on-site audits

Thank you for the opportunity to comment on proposed changes outlined in the consultation document *Proposed changes to the legal aid audit policy to enable greater use of on-site audits* (consultation document). The consultation document outlines minor changes to the Legal Aid Provider Audit and Monitoring Policy and Terms of Reference, to enable more flexible use of on-site audits, within the standard annual audit programme.

The Law Society sought input from its Legal Services Committee, Family Law Section and Regulatory team, as well as the profession, and makes the following brief comments on the proposed changes.

The Law Society supports the objective of the proposed changes, of improving efficiency and adding value to the legal aid audit programme. The Law Society also agrees that the proposed changes will remove the inference that on-site audits are solely associated with serious quality concerns (as is the current practice under a special audit).

The consultation paper explains the benefit of an on-site audit:¹

“On-site audits present the auditor with a first-hand view of a provider’s real-time performance through the opportunity for an on-site interview. The auditor is able to ask the provider questions about their case files and engage in direct dialogue about their legal practice. By being present at the provider’s premises auditors can gain a holistic insight into the provider’s service delivery systems”.

The audit and monitoring policy and terms of reference provide a general overview of the audit process and the auditor’s role, but it would be helpful to provide more information so that legal aid providers can understand how the on-site audit process will work in practice. The initial information given to providers about the on-site audit process² could be expanded to include, for example, the location of the on-site audit, anticipated duration of the auditor’s visit, the scope of the audit (the list of files to be audited, the focus of the audit, etc), and the possibility of an on-site interview.

¹ *Proposed changes to the legal aid audit policy to enable greater use of on-site audits*, at [12].

² Audit and Monitoring Policy at page 13: stage 2 of the on-site audit process.

It would be useful for the policy and terms of reference to clearly state the purpose of the on-site interview and its parameters (such as timing and duration of the interview, and whether there are limits on the right of reply/correction), so that providers and auditors have a clear understanding of the process. The objective should be for the on-site interview to be a fair and impartial process that preserves natural justice rights whilst maintaining the auditor's independence to assess the quality and value of the legal aid work. It would also be helpful for auditors to receive the appropriate training on the new on-site audit process (including interview techniques).

We hope these comments are helpful to the Ministry and would be happy to discuss them further. If you have any questions please contact the convenor of the Legal Services Committee, Elizabeth Bulger, through the Committee Secretary, Amanda Frank (amanda.frank@lawsociety.org.nz / ddi 04 463-2962).

Yours faithfully

A handwritten signature in black ink, appearing to be 'K. Beck', written in a cursive style.

Kathryn Beck
President