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Victims' orders proceedings

The New Zealand Law Society (Law Society) appreciates the opportunity to comment on the Ministry of Justice's *Victims' Orders Proceedings: consultation with legal aid providers, August 2014* (consultation paper).

Proposed approach

There appear to be no major issues with the Ministry's proposed approach to approving legal aid providers for victims' orders proceedings. The Law Society contacted approximately a dozen lawyers covering the family, criminal and parole practice areas, who agreed that there should be a 'hybrid' legal aid approval for suitably experienced family and criminal providers who do not have Civil legal aid approval. That appears to be addressed by the proposed approach.

User charge

The consultation paper is silent as to whether applicants for a Victims' Order against Violent Offenders (VOVO) who are eligible for legal aid will be required to pay a user charge. The feedback received by the Law Society supported an exemption from the user charge for victims' orders, as occurs for domestic violence proceedings.

The Law Society is not opposed in principle to the imposition of a user charge for legal aid services. However, the Law Society believes an exemption from the user charge should be available for VOVO applicants.

Requiring victims of serious offences to pay a user charge is inconsistent with the purpose of the Victim's Orders Against Violent Offenders Act 2014, which is aimed at lessening the effects of serious violent offending for victims. Several other proceedings involving victims or alleged victims are currently exempt from paying a user charge, including applications for protection orders or other orders under the Domestic Violence Act. There is also no filing fee for Family Court protection order applications. It would be inconsistent if domestic violence victims who apply for protection orders are exempt from paying a user charge, while victims of other violent offences are required to pay a user charge to bring VOVO proceedings in order to seek protection.


Volume of applications, and nature and extent of the work involved

As the consultation paper notes, civil non-contact orders under the Victims' Orders against Violent Offenders Act 2014 are a new area of civil law. There is therefore a degree of uncertainty as to the volume of

applications that can be expected as well as the nature and extent of the work involved, and the Law Society asks that this area be kept under review. Once a number of applications have gone through the system (in perhaps 18 – 24 months' time), the Ministry and lawyers will have a better understanding of the work involved. At that point the Law Society recommends that the Ministry consults more fully with the profession, including as to whether the fixed fees for this work are considered adequate.

The Law Society hopes this feedback is of assistance to the Ministry. If you wish to discuss the matters raised, please contact the Legal Services Committee convenor, Liz Bulger, through the committee secretary, Rhyn Visser (phone (04) 463 2962 or email rhyn.visser@lawsociety.org.nz).

Yours sincerely

A handwritten signature in black ink, appearing to be 'Chris Moore', with a long horizontal line extending to the right.

Chris Moore
President

Cc Michele McCreadie
General Manager Legal Aid Services