Legal Services Agency
Pokapū Ratonga Ture

Reform of the duty lawyer service at the Manukau District Court

1. Introduction

In June 2009 the Minister of Justice, the Hon Simon Power, announced the expansion of the Public Defence Service (PDS) and duty lawyer reforms across all Auckland courts, ie the Auckland, Manukau, Waitakere, North Shore, Papakura and Pukekohe courts.

This information sheet outlines upcoming changes to the duty solicitor scheme at the Manukau District Court. The changes are generally the same as those already in place at the Waitakere and Auckland District Courts and the Wellington, Lower Hutt and Porirua District Courts. The key differences are:

- an increase in the participation of the PDS, in particular the appointment of duty lawyer supervisors as PDS employees
- an application and appointment process for constructing the new duty lawyer roster.

Duty lawyer reforms will be implemented at the Papakura and Pukekohe District Courts once the Manukau reforms are in place. However, some interim roster adjustments may be needed as a result of Manukau lawyer inclusion on these rosters.

2. Reform of the legal aid system

In response to the recommendations made by Dame Margaret Bazley in her November 2009 report on the legal aid system, the Government has announced a comprehensive package of changes to the legal aid system. These are likely in the longer term to lead to further changes to the duty lawyer service and associated assignment arrangements.

This information sheet reflects the current position. The Legal Services Agency (LSA) is committed to maintaining open and effective working relationships with duty lawyers and legal aid lawyers and their representatives. We will keep you informed of any changes in policy or operational practice that may have implications for the PDS, duty lawyer reforms or individual lawyers.

3. Background to the changes

For a number of years there have been stakeholder concerns about the operation and standard of duty lawyer services. Concerns range from the increasing number of inexperienced duty lawyers participating on court rosters, to inappropriate duty lawyer practices.

Administrative reforms designed to improve the quality and consistency of duty lawyer services were initially tested at the Waitakere and Auckland District Courts and are now part of the on-going operation of the service at these courts. The improvements in the quality and consistency of the duty lawyer service at these courts are the basis of the reforms being introduced at Manukau.

4. Overview of changes

The changes at the Manukau District Court are designed to ensure that defendants receive consistent high quality service that is a major contributor to a more efficient summary court process.

The key features of the reformed duty lawyer service at the Manukau District Court are:

- PDS-appointed duty lawyer supervisors who have clear responsibilities for overseeing the operation of the service
- increased PDS participation on the roster
- selection criteria used to determine duty lawyer suitability for initial appointment to the new roster, and for ongoing roster entry
- roster composition that takes into account duty lawyers' experience, competence, skills and team fit
- a consistent pattern of rostering, ie generally weekly or fortnightly on the same day of the week
- removal of the requirement to participate in the duty solicitor scheme in order to be eligible for categories 1 and 2 legal aid assignments
- LSA staff at the court to assist defendants with legal aid application forms
- duty lawyer instructions that express clear expectations of duty lawyers.

Duty lawyers on the Manukau roster cannot also be rostered on the Auckland and Waitakere District Court rosters.

5. Role of the PDS

It is intended that the PDS will play a more prominent role in the duty lawyer service at the Manukau court. The LSA will:

- recruit specialist duty lawyer supervisors as PDS employees for the Manukau court
- increase the overall PDS contribution to three PDS duty lawyers per weekday, including the duty lawyer supervisor.

The PDS duty lawyer supervisor positions will be advertised. Experienced criminal lawyers with strong leadership and organisational skills, who are keen to be involved in the development of an effective and efficient duty lawyer service at the court, will be sought for these roles. In addition, a senior duty lawyer supervisor position will be established. This position will be part of the PDS management team and will be a key contributor to improvements to the wider duty solicitor scheme.

As with assigned cases, the PDS allocation of rostered duty lawyer sessions at Manukau will be limited to a maximum of 33% as at other courts.

6. Duty lawyer supervisors

Duty lawyer supervisors will be appointed to oversee the duty lawyer service provided at the court. Duties include:

- organising the flow of work and managing their team on their rostered day to ensure a high quality service is provided to clients and the court
- assessing and inducting new entrants to the roster
- assuming responsibility for some administrative matters, including controlling replacements to ensure substitute lawyers are suitable, and ensuring that duty lawyers are signed on or off according to court need
- working with the administrators to manage the composition of the roster so that it meets the needs of the court.

The LSA expects to appoint two or three PDS duty lawyer supervisors, including a senior duty lawyer supervisor. The positions may be either part-time or full-time with the number appointed depending upon the particular hours agreed with appointees. Any part-time appointees could not continue to be involved in non-PDS criminal legal work.

Position descriptions and more information about the appointment process are available online.

7. Appointments to the duty lawyer roster

The LSA will design a roster that meets defendants' and the court's needs. There will be a limited number of positions on the reformed roster, and lawyers will be able to apply for a position and will be selected on the basis of the criteria outlined below.

Thirty-six of the current 51 weekday duty lawyer sessions are expected to be available to privately contracted duty lawyers, as well as up to four sessions on Saturday.

Appointments to the roster will be made by a panel comprising the Public Defender or his representative, a respected senior criminal lawyer who is familiar with the Manukau court and bar, the Manukau court manager or representative and the LSA Northern Regional Manager.

The three broad criteria for selection[1] to the roster will be:

- reliability, ie the applicant has a good record of attendance, and when on duty provides duty lawyer services as expected by the LSA
- ability to provide a sound legal service to defendants and the court
- good interpersonal skills when relating to defendants and good working relationships maintained with agencies working at the court.

A lack of experience will not exclude applicants from the selection process and there will be a limited number of spaces for newly-qualified duty lawyers.

Saturday and public holiday roster

Saturday and public holiday duty lawyers will be appointed from the pool of Manukau weekday duty lawyers who have indicated availability for such work and who have the best skill fit for Saturday and public holiday work (ie JP arrest courts).

Information for lawyers wishing to apply for sessions on the Manukau duty lawyer roster is available online.

8. Roster structure

The new roster will be structured in daily teams of lawyers with a range of skills and experience to meet the needs of each day's court schedule. Duty lawyers will be rostered on a consistent day of the week, eg every Tuesday (or fortnightly on Tuesday), and this will allow them to plan other commitments more readily around their rostered duties.

The LSA is committed to the long-term development of the duty lawyer service so we will endeavour to set aside a small number of spaces for the entry of newly-qualified duty lawyers.

1 All applicants for the reformed roster must have a current duty solicitor listing with the LSA.

9. New entrants to the roster

Once the reformed roster is established, entry to the roster will depend on applicants being assessed as suitable by duty lawyer supervisors, and on the availability of appropriate sessions on the roster.

All new applicants, especially newly-qualified duty solicitors, will generally be observed and assessed by duty lawyer supervisors and familiarised with the court's operation. Once admitted to the roster, the duty lawyer supervisor will continue to support and mentor new entrants to ensure that they continue with their professional development and provide a quality service.

10. 'De-linking' participation on a roster and eligibility for categories 1 & 2 rotation assignments

In line with the rotation assignment policy at the Waitakere and Auckland courts, once the roster reforms are implemented, criminal legal aid providers will no longer be required to be on the Manukau duty lawyer roster to receive criminal proceedings categories 1 and 2 rotation assignments.

11. Completion of legal aid forms

As at the Auckland and Waitakere courts, the LSA will employ staff to assist defendants with criminal legal aid applications during busy list court sessions. The introduction of the legal aid support officers:

- enables lawyers to concentrate on their core role of providing legal advice
- provides greater assurance that any 'lawyer of choice' is genuinely preferred
- provides the LSA with more complete and accurate applications, avoiding the need for follow-up and facilitating prompt decisions on applications and more appropriate debt establishment.

12. Duty lawyer instructions

Duty lawyer instructions will be issued with the new roster, stating clearly the Agency's expectations of Manukau duty lawyers, eg hours of work, protocols for arranging a replacement if unable to attend and revised payment vouchers.

The duty lawyer instructions in place at the Auckland and Waitakere courts can be viewed online.

13. Papakura and Pukekohe court rosters

The changes to be introduced at Manukau may also have implications for the Papakura and Pukekohe duty lawyer rosters, as 27 of the Manukau duty solicitors are currently also on the Papakura roster. Adjustments may need to be made to the Papakura and Pukekohe rosters to avoid roster clashes.

Later in the year, the Agency will give Papakura and Pukekohe duty lawyers and criminal lawyers more information about duty lawyer changes and the expansion of the PDS to their courts.

14. Roster administration

The Initial Criminal Legal Services (ICLS) Unit, based at the Manukau PDS office, currently manages the Auckland, Waitakere and Wellington cluster court duty lawyer rosters and will take over management of the Manukau roster from the local Legal Aid Office when reforms are implemented.

Further information is available at www.lsa.govt.nz/lawyers/index.php

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