

17 January 2019

Ministry of Justice
Wellington

Attention: Tracey Baguley, Manager, Legal Aid Services

By email: tracey.baguley@justice.govt.nz

Re: Proposed changes to High Cost Case policy and Amendment to Grant forms

The New Zealand Law Society appreciates the opportunity to comment on the proposed changes to the high cost case policy and amendment to grant forms.

The Law Society supports the proposals to streamline the process when applying for high cost cases and to combine the amendment to grant forms into three forms (civil, family/civil and Waitangi). The Law Society previously raised concerns regarding the high cost case policy and is pleased to see positive changes, including removing the requirements for a high cost case plan, expert CV and expert request form. Similarly, the new amendment to grant forms will provide legal aid providers with a more user-friendly, clear and simple process.

Minor comments are set out below.

High Cost Cases

One proposed change to the high cost case policy is to automatically remove class A drug offences where the case is a principal target of a police operation.

We note that a significant number of Class A drug offence cases involve large volumes of disclosure and significant pre-trial and trial preparation time. As such many of these cases are likely to exceed the fixed fee amount, potentially resulting in providers ultimately having to apply to bring the case within the high cost case regime. The Ministry may wish to consider the practical implications of the proposed change, including whether legal aid providers could instead have the option of electing the high cost case framework at the outset. This may avoid unnecessary future administrative burden with Class A drug cases.

Amendment to Grant forms

As a general observation, the current amendment to grant forms refer to 'aided person' or 'client specific' throughout. We understand the Ministry's preference is to refer to the 'customer' (as indicated in the proposed new forms). However, as these forms are completed by the legal aid provider, the Law Society recommends that the word 'client' is retained for ease of reference. For example, under the criteria section on the forms, it should refer to 'client specific'.

On a minor note, the Law Society suggests increasing the space for providing reasons for late submission of the criminal amendment to grant form, so as to not limit the content a provider may wish to include.

Conclusion

If you have any questions regarding these comments, please contact the convenor of the Law Society's Legal Services Committee, Elizabeth Bulger, through the Law Reform Adviser, 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