

18 February 2021

Tracey Baguley  
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Ministry of Justice  
**Wellington**

By email: [Tracey.Baguley@justice.govt.nz](mailto:Tracey.Baguley@justice.govt.nz)

Tēnā koe Tracey

**Re: Police Detention Legal Assistance Scheme – nationwide review**

As you know, the New Zealand Law Society | Te Kāhui Ture o Aotearoa has been in discussion with you and others in the Ministry for some years now, regarding ongoing issues with the Police Detention Legal Assistance scheme. The discussions have focused on the need for a wider review of the scheme and improvements to ensure the scheme remains effective.

In particular, the Court of Appeal judgment last year in *Kerr v New Zealand Police*<sup>1</sup> served as a timely reminder of the need to have a service that is effective and that facilitates prompt access to legal advice. The Court confirmed that the state has an obligation to ensure that people who have been arrested or detained are able “in a real and practicable way” to exercise their New Zealand Bill of Rights Act 1990 s 23(1)(b) right to have access to legal advice.

Following the judgment, the Law Society considers that a nationwide review of the PDLA scheme – as signalled by the Ministry in 2018 – is needed and should be a priority. We look forward to the further discussions about long overdue improvements to the scheme, which will take place as part of the nationwide review.

In the meantime, we were pleased to see the recent nationwide trial roster over the Christmas and New Year period to address issues of local availability, which saw PDLA lawyers rostered on in six-hour shifts. We hope the current survey about the trial attracts feedback from the profession that assists in finding solutions to implement on a long-term basis. We look forward to hearing about the survey feedback in due course.

The Law Society remains committed to working with you and the Ministry to look at ways the scheme can be improved and to ensure the right to counsel is facilitated. We look forward to further discussions and I can be contacted in the first instance via the Law Society's Law Reform and Advocacy Advisor, Amanda Frank ([amanda.frank@lawsociety.org.nz](mailto:amanda.frank@lawsociety.org.nz)).

Nāku noa nā,



Elizabeth Bulger  
**Convenor, NZLS Legal Services Committee**

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<sup>1</sup> *Kerr v New Zealand Police* [2020] NZCA 245.