



Standing Committee on Justice and Community Safety

Inquiry into Annual and Financial Reports 2022-2023 **ANSWER TO QUESTION ON NOTICE**

Asked by: Mrs Elizabeth Kikkert MLA

Reference: Hearing on 22 November 2023, Annual Report of Legal Aid ACT

In relation to:

Duty Lawyer and Representation Services for Care and Protection Matters (pp. 30, 32) – question lodged on 29 November 2023

(1) The Legal Aid Annual Report notes that ‘the Commission ...provided 607 instances of legal advice and duty service in Care and Protection Proceedings’ (p. 30). Was the commission able to provide duty lawyer service in care and protection proceedings to all who requested and/or needed it during the reporting year?

- (a) If not, what were the reasons, and how many missed out on this duty service?
- (b) If any missed out on duty service, what other assistance (if any) was offered to them?

(2) During the reporting year, how many applications for grants of legal assistance in care and protection proceedings were made?

(3) How many of these grants were approved?

(4) For what reasons were applications for grants of legal assistance in care and protection matters not approved?

(5) What other assistance (if any) was offered to those whose applications were not approved?

Legal Aid: The answer to the Member’s question is as follows:–

(1)(a)(b) Legal Aid ACT’s Care Duty Service is offered at the ACT Magistrates Court each weekday and is available to all parties to Children’s Court proceedings. This is a proactive service where Legal Aid ACT’s lawyers assist parties to proceedings. The funding for this service is due to terminate on 30 June 2024.

This service is available to all parties and our lawyers actively approach parties to proceedings and offer their services. We do not hold data for people who decline duty services, but believe this is rare.

In circumstances where a legal conflict is identified Legal Aid ACT refers the person to a private practitioner to provide the duty service. If no private practitioner has the capacity to assist on a duty basis, Legal Aid ACT will encourage the client to apply for a grant legal assistance so that a private practitioner can be engaged to assist them in an ongoing capacity.

(2) During 2022-23, 95 applications for grants of legal assistance in care and protection proceedings were made directly to Legal Aid ACT. Additionally, Legal Aid ACT provided legal representation for child(ren) in 101 care and protection proceedings, at the request of the Director-General, Community Services Directorate.

(3) 92 of the 95 applications made for grants of legal assistance in care and protection proceedings were approved and 101 Child(ren) Representatives appointed, during 2022-23.

(4) Three applications for grants of legal assistance in care and protection proceedings during 2022-23 were not approved for the following reasons: one matter was more appropriately dealt with by Legal Aid NSW and the applicant was referred to them; one applicant did not meet the means (financial) test; one applicant wished to oppose an application for orders but on the evidence, there was no merit, that is, the applicant did not meet the merit test.

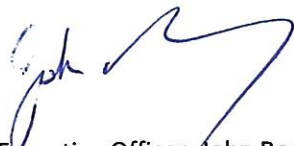
Noting, for an application to be approved, Legal Aid ACT's *Legal Assistance Guidelines* require an application to meet both the means (financial) and merit tests.

(5) Unsuccessful applicants were referred to the appropriate Legal Aid jurisdiction or to Legal Aid ACT's Helpline and Family Duty Law Services. One applicant also received assistance from our Community Liaison Unit.

When an application is refused, applicants are advised of their right to ask for it to be reconsidered. They may also request an independent review if they are not satisfied with the outcome of the reconsideration.

Approved for circulation to the Standing Committee on Justice and Community Safety

Signature:



Date: 11/12/23

By the Chief Executive Officer, John Boersig