

GOVERNMENT SUBMISSION

Standing Committee on Public Accounts

Report No. 4/2005

Courts Administration

Government Submission

Auditor-General's Performance Audit Report No. 4/2005 – Courts Administration

Introduction & Background

In 2004, the Auditor-General indicated that a performance audit of Courts Administration would be conducted during 2005.

The performance audit formally commenced in November 2004 and the report of the audit was tabled in the Legislative Assembly on 22 September 2005. During the course of the performance audit, Audit Office staff consulted with the Chief Justice, Chief Magistrate and the Magistrates, departmental officers, justice system participants including the Director of Public Prosecutions and Legal Aid ACT, as well as other stakeholders such as the legal profession.

The Department of Justice and Community Safety (JACS) responses to the report's 24 recommendations, together with summaries of the responses from the Chief Justice and Chief Magistrate are included in the body of the report.

The report makes recommendations in each of the following areas:

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| ▪ strategic planning & governance | ▪ performance measures |
| ▪ scheduling of cases | ▪ client service |
| ▪ budget management | ▪ use of IT tools |
| ▪ administrative procedures | ▪ staff skills and training |

The key findings are directed toward:

- Support for a more collaborative relationship between the Judiciary and executive
- Enhanced financial and performance reporting
- Implementation of better practice to reduce costs
- Shared responsibility between the executive and Judiciary on the timely and economic disposal of cases
- Improving project and risk management
- Simplifying processes and documenting procedures
- Combining registries, and
- Improving human resource practice.

The Auditor-General's report uses the abbreviation "LC&T Unit" to denote the Law Courts & Tribunals Cost Centre, which is an administrative unit within the Department of Justice and Community Safety (JACS). In this submission references to actions by JACS includes activity by the LC&T Unit.

Government Position on Recommendations/Findings

Recommendation 1 (page 26)

JACS should work with the Judiciary with a view to:

- a) establishing a more collaborative relationship between the Judiciary and the Department;
- b) putting in place regular forums for communication between the Judiciary, the Department and the executive arm of the Government; and
- c) establishing a governance model for the courts that provides greater administrative independence and hence better alignment of courts' responsibility with public accountability.

Government Position

Agreed.

- a) more regular meetings between the Attorney General and the Heads of Jurisdiction, in addition to the separate meetings with the Chief Justice and Chief Magistrate, have been agreed and commenced in December 2005.
- b) the "Courts Governance Committee", comprising the Attorney General, the Chief Justice, the President of the Court of Appeal, the Chief Magistrate, and the Chief Executive of the Department of Justice and Community Safety will meet every three months to monitor progress in the courts and facilitate joint action in areas of concern.
- c) the Courts Governance Committee will consider any future model of court governance.

Recommendation 2 (page 26)

JACS should invite the heads of jurisdictions to contribute comprehensive annual reports for incorporation in the overall JACS Annual Report. Alternatively, heads of jurisdictions should provide their annual report directly to the Attorney General or the ACT Legislative Assembly.

Government Position

Agreed.

JACS will assist both Heads of Jurisdiction to publish a comprehensive annual review to be provided directly to the Attorney General and reproduced as a separate part of the JACS Annual Report from 2006-07.

Recommendation 3 (page 28)

The LC&T Unit should develop a risk management plan to assist in identification and amelioration of significant risks.

Government Position

Agreed.

Recommendation 4 (page 30)

The LC&T Unit should, for recent and future audit and evaluation reports, establish implementation plans that address each agreed recommendation, and monitor and report on the progress against these plans.

Government Position

Agreed-in principle.

Consideration of previous recommendations on improvement in efficiency, or relevant to structure and governance, of ACT Courts will also be re-examined. Where relevant, and agreed by the Courts Governance Committee, implementation plans will be developed.

Consistent with good practice, implementation plans will also be developed and reporting arrangements specified on recent and future evaluations to ensure recommendations are being acted on and actively considered.

Recommendation 5 (page 42)

The LC&T Unit should analyse better practices from other jurisdictions, and consult with relevant Government departments with a view to advising Government and the Judiciary on ways to reduce costs, with particular attention to the Children's Court.

Government Position

Agreed.

The issue of establishing systems for identifying national better practice in case management which improve efficiency, has been placed on the forward agenda for future meetings of the Australian Court Administrators' Group and the Productivity Commission's Court Administration Working Group.

Further evaluation of the case management processes and procedures that should apply for differential case management practices, particularly in care and protection matters, is planned. This work will attempt to improve expedition of matters and reduce the number of attendances, which has been identified against national benchmarks as an area for improvement, particularly in civil matters in the children's court.

Recommendation 6 (page 50)

The LC&T Unit should review the effectiveness of compliance and other mechanisms to encourage efficiency in caseload management, and advise the Government and the Judiciary on options.

Government Position

Agreed.

The issue of costs, fees and other sanctions will be examined by JACS and advice provided to Government and the Judiciary.

Recommendation 7 (page 51)

The LC&T Unit should ensure that there are procedures in both Courts for:

- a) collecting relevant statistics on long-wait cases; and
- b) analysing the information and informing the Judiciary.

Government Position

Agreed.

The current practice by courts administration of providing monthly Backlog Indicator reports to the Judiciary will be expanded to include all adjudicative and dispute resolution activities of the courts.

While noting that listing will remain in the control of the Judiciary, utilisation of resources to consolidate listing activity into a specialist cell to improve capacity for effective case management analysis, particularly in the Magistrates Court as recommended by the Audit, is supported. The recent review of registry operations recommends the development of a listing unit through reprioritisation of existing resources and implementation of this is currently the subject of consultation with the courts.

Recommendation 8 (page 54)

The LC&T Unit should:

- a) record and analyse the cause and extent of all short-notice adjournments or cancellations to hearings;
- b) report this analysis and assist in developing strategies to improve utilisation of the Courts' resources; and
- c) consider, in particular, greater over listing to compensate for the current pattern of case cancellations.

Government Position

Agreed.

The current practice by courts administration of providing monthly Backlog Indicator reports to the Judiciary will be expanded to include all adjudicative and dispute resolution activities of the courts. While the listing strategy is a matter for the respective Heads of Jurisdiction, the Government will work with the courts to improve case management decision-support systems. The Government has supported the Chief Magistrate's Listing Review by funding an expert consultancy to work with the court.

Recommendation 9 (page 55)

The LC&T Unit should support the Judiciary by facilitating the formal evaluation of the effectiveness of significant initiatives such as the Case Management Hearing in the Magistrates Court and the Pre-Arraignment Conference in the Supreme Court.

Government Position

Agreed-in-principle

These are matters clearly in the hands of the Judiciary. The Government supports consideration by the Judiciary of evaluations of these caseflow techniques.

Recommendation 10 (page 56)

Given the effectiveness of conferencing, the LC&T unit should:

- a) monitor conferencing processes and outcomes in order to further enhance efficiency and court user satisfaction; and
- b) consider implementing measures such as improved guidance material and identification of training needs for conferencing staff.

Government Position

Agreed.

The Government encourages the monitoring and evaluation of the conferencing process and outcomes. The continued use of conferencing in appropriate cases as an effective contributor to courts case management is supported.

Recommendation 11 (page 59)

The LC&T Unit should work with the Magistrates to formally analyse and advise on approaches to improving caseflow management. These approaches might include, but not be limited to:

- a) modified running lists;
- b) managing timeliness of cases by exception; and
- c) use of more efficient procedures for routine court appearances.

Government Position

Agreed.

The Government encourages formal review and evaluation of potential approaches to assist case scheduling, particularly in the Magistrates Court.

Recommendation 12 (page 62)

The LC&T Unit should consider measures to improve services to court users, such as:

- a) identifying needs of different court user groups (including users such as unrepresented litigants);
- b) publishing combined court user service standards for all court services; and
- c) ensuring that court user service standards are met.

Government Position

Agreed.

- a) The 2005-06 Customer Satisfaction Survey will be provided to a broader range of court users and a Litigants-in-Person Plan will be developed;
- b) A combined Service Charter for both courts will be developed and published;
- c) Standards will be monitored via both the annual survey and rolling customer feedback mechanisms, such as the feedback brochures currently in use in the Supreme Court.

Recommendation 13 (page 63)

The LC&T Unit should improve the usefulness of court user satisfaction surveys by:

- a) addressing the surveys to a more diverse sample of court users;
- b) publishing the results in the Annual Report and on their web site; and
- c) implementing appropriate action to address issues identified in the survey.

Government Position

Agreed.

- a) a customer segmentation analysis will be conducted prior to the 2005-06 Customer Satisfaction Survey to ensure that the survey is provided to a broader range of court users;
- b) the results of the surveys will be published in the Annual Report and on the courts' website; and
- d) actions to address any issues identified in the surveys will be documented and similarly reported upon.

Recommendation 14 (page 63)

The LC&T Unit should formalise processes for dealing with administrative complaints so that they are actioned, and feedback is given to complainants. This process could also include the identification of frivolous complaints, and where no further action is to be taken, this should be recorded.

Government Position

Agreed

Recommendation 15 (page 64)

The LC&T Unit should work to improve communication and liaison with stakeholders, including regularly running meetings and forums where these have been identified as desirable.

Government Position

Agreed-in-principle.

The Government is committed to stakeholder communication and in particular encourages consultation and liaison between senior stakeholders and the Heads of Jurisdiction.

The Government has facilitated changes to the law to allow the courts to better manage their own affairs through the harmonised rules of court, made by a judicial rules committee. This committee also provides opportunity for stakeholder participation.

It is also noted that Registry User Forums will be implemented in all jurisdictions and the re-establishment by the Supreme Court of consultative arrangements is welcomed.

The Government awaits feedback on the comprehensive approach to stakeholder involvement in the operations of the Magistrates Court, which is being developed through the Chief Magistrates Listing review.

Recommendation 16 (page 71)

JACS should establish the LC&T Unit as a separate Output Class to provide more visibility of its budget and performance against it.

Government Position

Agreed.

Subject to approval by the Treasurer under the Financial Management Act, a separate Output Class will be established for the 2006-07 Financial Year.

Recommendation 17 (page 71)

For the 2006-07 Budget cycle, JACS, in conjunction with the Courts, should conduct a fundamental review of the cost basis for Court services to support a decision for appropriate base funding.

Government Position

Agreed in part.

Review of the cost basis for court services will occur through activities flowing from the recommendations made by the Auditor-General. These require implementation of audit recommendations for improvement in areas of caseflow management; better use of information technology and improvement in integration and efficiency in the operation of registries.

The Courts Governance Committee has agreed in principle to the recommendations of the Registry review. Re-engineering of work practices of the courts' registries is currently being implemented with further reviews planned of court activities.

An assessment of base funding would be premature for the 2006-07 Budget cycle and could not occur until matters raised in the Audit have been addressed.

Recommendation 18 (page 71)

The LC&T Unit should continue to seek efficiencies, either through suggestions in this report or elsewhere, in order to achieve budget targets.

Government Position

Agreed.

JACS has established a Steering Committee for the Courts' Budget Strategy 2005-06, chaired by the Corporate Finance Manager with members drawn from the Corporate Executive and Courts Administration. An efficiency review of the courts' Business Services Unit by the department's internal auditor has already commenced and expert assistance is being provided to courts administration to implement a program to re-engineer registry processes. These processes may identify efficiencies and the Government will continue to seek efficiencies as opportunities become available.

Recommendation 19 (page 73)

The LC&T Unit should put in place sound project management practices to deliver the case management system redevelopment with minimum risk.

Government Position

Agreed.

A revised Risk Management Plan for the caseload management system redevelopment project will be developed for all future stages of the project.

Recommendation 20 (page 75)

The LC&T Unit should establish an Information and Communication Technology (ICT) advisory group comprising administrative and judicial officers to propose and sponsor projects for the better use of ICT in the Courts.

Government Position

Agreed.

The Heads of Jurisdiction will be asked to nominate judicial members to the new ICT Advisory Group (ICTAG). The ICTAG will be encouraged to develop a new ICT Strategic Plan for Courts Administration to update the last assessment conducted in December 2000.

Recommendation 21 (page 77)

The LC&T Unit should:

- a) consult the Judiciary and then advise Government on ways to simplify forms and reduce their number;
- b) establish consistent procedures for use by staff in the Magistrates Court registry; and
- c) prepare improved manuals and procedures to assist Magistrates.

Government Position

Agreed-in-principle.

The content of forms is specified by legislation, while the format is a matter for courts administration, in consultation with stakeholders and the Judiciary. The Government notes the work of the Courts Harmonised Rules project as outlined in the Departmental response to recommendation 15.

Recommendation 22 (page 81)

The LC&T Unit should:

- a) better integrate Magistrates Court counter services with the rest of the registry;
- b) in the review of registry functions, seek both to achieve fewer and better trained teams and to encourage multi-tasking within teams; and
- c) consider the merits of combining the Supreme and Magistrates Courts registries.

Government Position

Agreed.

Recommendation 23 (page 84)

The LC&T Unit should seek to improve HR management practices and provide as much certainty as possible to staff by:

- a) not recruiting at all if the position is not justified;
- b) recruiting permanently where the need has been established;
- c) recruiting for the period to the predicted completion of the Magistrates Courts renewal project if the future of the position is subject to this review; and
- d) where a temporary vacancy has been created, and requires filling, the position should be filled for the duration of the vacancy rather than for a portion of it.

Government Position

Agreed-in principle.

The overall need to re-engineer registry practice will work toward addressing the human resource management practice issues identified.

Recommendation 24 (page 86)

The LC&T Unit should implement measures to address staff concerns raised, including performance management and staff training and development.

Government Position

Agreed.

The overall activity to re-engineer registry practice will also involve comprehensive review of human resource issues in the courts.

In relation to training and development issues, the LC&T is in the process of establishing a Liaison Officer to the National Committee for Court Education, a recent initiative of the Australian Court Administrators Group, to implement nationally consistent and externally accredited training for non judicial court staff.