

Assessment of Implementation Report

Alberta Justice and Solicitor General

Funding Sustainable and Cost-Effective Legal Aid Services

(May 2017)

Summary of Recommendations

In September 2020, we completed our assessment of the two outstanding recommendations for our May 2017 audit of Alberta Justice and Solicitor General's Funding Sustainable and Cost-Effective Legal Aid Services. We found both of these recommendations have been implemented.

IMPLEMENTED Recommendation

Determine the type and scope of services a public legal aid system can sustain

IMPLEMENTED Recommendation

Ensure performance measures are in place for legal aid services

Introduction

In 2017, we audited whether the department had adequate systems and processes to:

- (a) determine the funding needed to effectively deliver and sustain legal aid services
- (b) monitor and evaluate the delivery of these services

In our audit, we made two recommendations to the department:

- determine, through analysis, the type and scope of services Alberta's publicly funded legal aid system can provide and sustain
- ensure there are processes in place to measure, monitor and report on the quality, efficiency and cost-effectiveness of publicly funded legal aid services.

In September 2020, we completed our assessment of implementation and found the department has implemented both recommendations. The department has now identified which mandatory services it must fund; which priority non-mandatory services will be funded, depending on available financial resources; and which it will not fund, nor will Legal Aid Alberta (LAA) provide support.

The department also worked with LAA to develop and report on 14 performance measures, which will enable it to measure and monitor the quality, efficiency and effectiveness of publicly funded legal aid services.

Recommendation:

Determine the type and scope of services a public legal aid system can sustain

IMPLEMENTED

Context

Legal aid is delivered in Alberta by LAA through a governance agreement with the department and the Law Society of Alberta. Legal aid is a means of providing legal assistance to eligible low-income Albertans who could not otherwise afford legal representation when dealing with matters that could significantly impact them. Some services provided by LAA are required by law, or because of court rulings; other services are not mandatory but are covered, as the department views them as a priority for eligible Albertans.

As the primary funder of a legal aid system, with continually increasing demand and funding pressures, when we conducted our original audit, the department did not have sufficient processes in place to answer two key questions:

- How much is it able to pay for a sustainable legal aid program?
- What non-mandatory services should it pay for?

Our findings

The department implemented our recommendation to determine, through analysis, the type and scope of services Alberta's publicly funded legal aid system can provide and sustain.⁴⁶

In October 2018, the department, LAA, and the Law Society of Alberta signed a new five-year governance agreement effective from April 1, 2019, to March 31, 2024. As part of the negotiations leading to this agreement, the department identified and documented:

- the seven types of constitutionally or statutorily required (mandatory) services the government must fund and which are provided for in LAA's budget
- other priority, but non-mandatory, services the department will fund for legal aid depending on available financial resources
- non-mandatory legal services it will not fund, nor which LAA will support

The current governance agreement includes a table setting out and describing the various mandatory and priority non-mandatory services LAA will provide, something not included in the previous agreement.

⁴⁶ *Report of the Auditor General of Alberta—May 2017*, page 39.

As stipulated in the current agreement, all signatories will review the ability of LAA to continue providing these services approximately half-way into its term, and make revisions as necessary depending on prevailing and fiscal circumstances.

To help determine the type and scope of services to be included in the new governance agreement, which were expected to be financially sustainable, in 2018, the department completed a detailed four-year forward-looking costing analysis. This analysis used a cost model developed for the department using financial projections prepared by LAA.

In 2019, the department also had a cost-benefit analysis prepared to help identify and quantify some of the cost savings and benefits LAA-provided services have on Alberta's justice system. This is the first time we are aware that the department has had this type of analysis done, the absence of which we noted in our 2017 report. At a high level, this analysis estimated the total costs avoided to the justice system in Alberta by LAA in 2017-2018 was approximately \$131,656,000, and the estimated benefit of LAA to the justice system for every \$1 spent was \$1.36.

Recommendation:

Ensure performance measures are in place for legal aid services

IMPLEMENTED

Context

Before an organization can assess the effectiveness and efficiency of a particular program, it must obtain information to measure and analyze the results.

In our original audit, we found LAA had only recently begun to include performance measures again in its three-year business plan. This was after the department requested it do so as required by the governance agreement. The monthly management reports LAA was providing to the department, which included financial and operational highlights and various variance analyses, were not sufficient themselves to enable the department to conclude on the efficiency and effectiveness of publicly funded legal aid services.

Our findings

The department implemented our recommendation to ensure there are processes in place to measure, monitor and report on the quality, efficiency and cost-effectiveness of publicly funded legal aid services.⁴⁷

A review of documents provided by the department show it and LAA have worked together to develop and implement key performance indicators/performance measures to assess the functioning of the legal aid system.

As of December 2019, there are 14 measures approved and in place. LAA reports to the department monthly or annually, depending on the measure. Our review of recent LAA reporting to the department confirmed required performance measures reporting is being done.

The 2019-2022 LAA Business Plan provided to the department also includes a number of performance measures with established targets across five identified priorities.

⁴⁷ Report of the Auditor General of Alberta—May 2017, page 42.