

ANNEXURE I

REPORT TO BOARD

16 July 2010

Impact of OSD funding shortfall on budget 2010/11

1. Background

1.1. The 2010/11 budget includes the outstanding OSD funding of R53.8million. This amount constitutes:

OSD Phase	Amount	Status
OSD Phase 1	R23.8 million	Implemented
OSD Phase 2	R30million	Not yet implemented
OSD Phase 2 back payment	R42million	Not yet implemented

1.2. On the 14 July 2010 Legal Aid SA COO met with both DoJ DDG, Mr Vuso Shabalala , as well as Adv Pieter du Rand, Legal Aid SA board member in order to clarify the position of DoJ regarding the outstanding OSD funding of R53.8 million for the 2010/11 budget period, as well as its effect to the MTEF baseline.

1.3. DoJ has indicated that they do not have funds to cover for the R53.8 million OSD shortfall. The Executive Authority has however in a meeting with the Legal Aid SA Board Chairperson expressed his wish to have Legal Aid SA service delivery maintained and that DoJ should make funds available to cover the OSD shortfall through the mid-year budget adjustments in September/October 2010.

2. 2010/11 Budget period

2.1. In the event DoJ is unable to secure funds to cover the OSD Phase 1 shortfall, Legal Aid SA will have a deficit of R23.8 million in the 2010/11 Budget. Salaries for 2010/11 are budgeted at 97% with recruitment currently being at about 94%.

2.2. In order to mitigate the probable deficit, the following measures are proposed:

- a) Court coverage is currently approximately 90% at District Courts and 100% at Regional Courts. For the remaining of the 2010/11 budget period, District Courts will be progressively reduced to no lower than 80% coverage whilst Regional Courts will be progressively reduced to no lower than 90% coverage. About R16 million will be saved from this measure, though its effect will be a reduction in the number of days that we are able to cover District Courts and Regional Courts. This has a direct negative impact on service delivery. Any further reduction on filled legal practitioner positions will result in a further percentage reduction in court coverage
- b) The recruitment process will be reviewed, centralizing the decision on filling of posts at Executive level, with due regard to the need to prioritise critical positions;
- c) Any savings derived during the financial year be reserved to cover part of the anticipated OSD shortfall.

2.3. In the event DoJ is unable to secure the OSD Phase 2 funding, the result will be that,

- a) a potential labour unrest within Legal Aid SA will increase;
- b) Legal Aid SA legal practitioners will be paid less than their counterparts in DoJ (who have already implemented OSD Phase 2), and those in NPA (in the event NPA finalise payments of OSD Phase 2).

3. MTEF 2011/12 onwards

Should DoJ not secure OSD funding in full, Legal Aid SA will have to revise its MTEF 2011/12 onwards. With the current macro increase on budget allocation received from National Treasury, Legal Aid SA salaries will continue to impact negatively on the Operational and Capital budget unless posts are either frozen or abolished. This will have a significant negative impact on service delivery and good progress Legal Aid SA has already achieved in providing legal representation to many indigent persons in the country.

4. Recommendation

To provide for the anticipated OSD shortfall funding of R23.8 million, it is recommended that:

- I. Savings from the 2010/11 financial year be used to fund the OSD shortfall;
- II. District Court coverage be approximately no lower than 80% coverage, while Regional Court coverage is reduced to no lower than 90% coverage, for the remaining part of the 2010/11 budget period. This will derive a saving of about R16million to cover the shortfall.