

# *Performance Audit Report*

## **Key Performance Indicators**

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- **Government-wide Framework**
- **Defining and Measuring Performance  
(Better Practice Principles)**
- **Legal Aid Commission Case Study**

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# **Executive Summary**

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## Executive Summary

Governments, the Parliament and the people are increasingly demanding that public sector organisations undertake their functions in the most economical, efficient and effective manner. This requires agencies to provide meaningful and useful information on their performance and the achievement of desired outcomes. This Report is concerned with the issue of holding individual agencies accountable for their performance, and doing so in a reliable and consistent way across the New South Wales (NSW) public sector.

Performance indicators, as the term itself suggests, are not an exact measure of achievement but rather provide an *indication* of agency performance. To be useful to members of parliament, Ministers and others, performance indicators must exhibit certain characteristics: appropriateness, relevance, accuracy, timeliness, completeness and comprehensiveness. They should focus on the primary purposes of the agency, program or activity. And they should concentrate on effectiveness and efficiency. Such indicators are termed *key performance indicators* (KPIs).

### Audit Opinion

**A lot of groundwork has been done in NSW to move towards improved performance accountability through the use of KPIs. Recent initiatives have focussed attention on improving the quality and consistency of performance measurement. Such initiatives include:**

- **Service Efforts and Accomplishments reporting, an initiative of the NSW Council on the Cost of Government (COCOG), which provides performance information in major policy areas such as Health, Transportation and Justice**
- **the Council of Australian Governments' National Benchmarking project, which enables comparison of efficiency and effectiveness in the provision of government services across the Commonwealth, States and Territories.**

**This audit concludes that, taken overall, NSW has a considerable array of performance information publicly reported. However, there are two substantial deficiencies with present arrangements:**

- **what individual agencies report, and how they measure what they choose to report, varies across the NSW public sector. Although there are efforts towards establishing a**

**Government-wide approach, currently, no overall guiding framework, standards or methodology have been introduced to engender consistency in the types of KPIs reported by agencies or the methods used to produce such information.**

- **NSW performance reporting systems lack independent assessment and validation of reported information. As a result, whatever information is reported has not been subject to the rigour of independent review. This would not be tolerated for financial information and it is anomalous that performance information goes unvalidated.**

### **Holding Governments Accountable**

Up until the late 1970s, the notion of accountability was mainly concerned with a breakdown of inputs, with a distinct emphasis being placed on any underexpenditure of appropriations and reasons for any variations in the proposed budget from current expenditure results. Then central coordinating agencies – firstly in South Australia, then in Victoria and the Commonwealth – started to question this general approach.<sup>1</sup>

Accounting for results (or Program Budgeting as it was generally described at the time) – with the emphasis on inputs augmented by examining outputs and, where possible, outcomes – was introduced by those three Governments. In 1985-86 the NSW Government also recognised the importance of KPIs and introduced program budgeting.<sup>2</sup>

Conditions which may assist to achieve robust accountability for results could include:

- desired or anticipated results being specified in advance (at program and agency level, and where possible also at government-wide level)
- resources and authority commensurate with responsibility
- performance information being generated or otherwise obtained (for outcomes as well as for inputs and operations)
- performance information being relevant, and related to the goals specified
- performance information being used to assess the adequacy of results achieved
- relevant KPIs being externally (publicly) published

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<sup>1</sup> A.C. Harris, paper presented at op cit. *Auditing the Performance of the Public Sector* 1993, p1.

<sup>2</sup> Ibid.

- a regime of incentives and penalties operating to stimulate desired performance (perhaps even to the extent of performance based funding)
- relevant KPIs being independently validated.

Performance reporting practices in NSW satisfy a number, but not all of these conditions. To further raise the standard of accountability to parliament and the community, The Audit Office recommends action to further reform and refine the performance reporting framework and to achieve greater consistency across the government-wide.

**Legislative Reform** Changes to the *Public Finance and Audit Act 1983* currently being mooted would extend the Auditor-General's mandate in NSW to that currently in practise in the ACT and Tasmania. Whilst this would provide for independent validation of the accuracy of performance information reported by agencies, there is as yet no provision for an independent validation of the appropriateness of those indicators, like in Western Australia. The Audit Office considers that there is need to ensure that the information reported is meaningful and reliable.

**The Legal Aid Commission** To assist it in the process of further developing its strategic planning and performance measurement framework the Legal Aid Commission (LAC) approached The Audit Office (TAO) to review the Commission's existing performance indicators and to suggest areas suitable for improvement.

**Developing Best Practice KPIs** The LAC is strongly committed to achieving best practice in performance reporting. TAO has thus used the review opportunity to illustrate to all agencies the process of developing KPIs in practical terms, and to highlight areas of difficulty, which all agencies will face. The possible use of current popular performance management methodologies, such as the Balanced Scorecard and program evaluation, is also canvassed by this audit.

LAC is continuing development of an effective strategic planning framework. LAC's vision, mission and goal statements generally rate favourably against best practice criteria. The Audit Office has sought to suggest further improvements for the LAC to consider, relating to outcomes, which the LAC aims to achieve for its clients specifically and for the citizens of NSW in general.



Whilst LAC has been active in improving the quantity and quality of its KPIs, there remain areas for further improvement. For example, The Audit Office has suggested the LAC would benefit from further work for the development of quantified measures of effectiveness.

As might be the case for many agencies, the LAC'S development of better KPIs will require changes in its information systems. Current systems do not sufficiently meet LAC's future information needs and it is in the process of implementing replacement systems.

To provide specific assistance to the LAC, TAO has provided it with separate detailed feedback on opportunities to improve further its performance reporting.

## **Recommendations**

The Audit Office recognises the various efforts within NSW to develop KPIs. The Audit Office considers that there is now a need to finalise and consolidate these efforts to achieve a consistent government-wide approach to holding individual agencies to account for their performance.

It is recommended that:

1. The Government through the central agencies introduce a framework for the reporting of performance by individual agencies which will:
  - provide a consistent approach to public performance reporting while at the same time requiring accountability on an individual agency basis (ie a consistent public reporting structure, and standards for data collection and presentation)
  - eliminate multiple reporting requirements to allow the establishment of more efficient and simplified data collection practices in agencies.
2. The Government through the central agencies develop and distribute to all agencies detailed strategic planning and performance measurement methodologies and techniques for KPIs.
3. The independent validation of KPIs be made a legislative requirement. Legislation should require agencies within a specific maximum time period publicly to report validated KPIs for each program or major activity.

To achieve agency-level accountability, indicators must not only be accurate and reliable, but must also be relevant. The relevance of indicators should be reviewed and endorsed outside of the individual agency. Either by the Minister in conjunction with stakeholders and beneficiaries, or by an appropriate independent body, like for instance in Western Australia, or some agencies in the Commonwealth or the United Kingdom.

## **Response from Premier's Department**

*Thank you for the opportunity to make comments in relation to the final report of the Performance Audit: Key Performance Indicators, in accordance with Section 38C(2) of the Public Finance and Audit Act 1983.*

*I acknowledge the inclusion of my previous comments in relation to the draft report and final report. I note that the Report's recommendations have been amended to reflect some of my comments, particularly in relation to the recognition of individual agencies' reporting requirements.*

*I restate that the Government already has a number of strategies in place for performance reporting which form an overall framework, therefore is not necessary to "introduce a framework" as suggested in the first recommendation of the report. The framework is continuing to be refined as the current reviews are progressed. These include, as previously advised, changes to the NSW financial and annual reporting legislation that will support new approaches to performance reporting within a whole-of-government context.*

*Current efforts by Premier's Department, Treasury and the Council on the Cost of Government to address overall cohesion in performance reporting plus work to develop integrated service delivery plans also provides opportunity for a whole-of-government approach to strategic planning and reporting.*

*Again I stress the need for sufficient responsiveness in key performance indicators to match the disparate requirements and changing stakeholders needs. Increasing the perspective nature of legislation is not the most appropriate means to achieve the desired outcome of flexibility. Standardisation has limited value where it is essential that agencies have flexibility to select the most appropriate reporting methodology.*

*The current suite of performance measurement methodologies available to chief executive officers provides the opportunity to select according to different reporting objectives. These methodologies all exist within an overall framework.*

*There will be continuing effort to develop appropriate means to validate performance reporting against the Government's priorities for service delivery. The Audit Office has a valuable role to play in this regard. The current Report is evidence of this and will inform amendments to performance monitoring within the NSW public sector.*

(Signed)

C. Gellatly  
Director-General  
20 August 1999

## Response from Legal Aid

*Mr Knowles has asked me to reply on his behalf to your letter of 30 July 1999, on the Performance Audit of Key Performance Indicators and to thank you for the opportunity to formally respond to the issues raised in the report specifically relating to the Commission.*

*The audit observation on pages 39 and 40 raises the only specific issue requiring comment. Although acknowledging the measurement difficulties involved, the audit observation concludes with the view that it is necessary for the Commission to seek to develop outcome measures to supplement the quality of service indicators it currently produces. The Commission takes no issue with that concluding view.*

*In the argument leading to that conclusion, however, the audit observation suggests that the success rate in court cases may be a relevant outcome measure. Some of the dangers inherent in that suggestion have been recognised in the audit observation, but the following important dangers have not:-*

- 1. the Commission's business is provision of legal aid in a broad sense. Representation is just one method of delivering legal aid services. To whatever extent they are relevant, success rates relate only to that part of the Commission's business which consists of representation. They do not relate to the outcome of the Commission's operations in total;*
- 2. in Civil and Family Law it is extremely difficult to determine how to measure a win or a loss. Many of these matters are settled on terms satisfactory to the parties although neither party gets everything they may have originally wished;*
- 3. even in Criminal Law where the position is a little more straightforward there are significant difficulties. For example in a Criminal case where a conviction is made but a less than expected sentence is handed down, does that represent a win or a loss?*
- 4. One advantage of in-house legal aid is that it has no profit motive, hence no interest in prolonging cases unnecessarily. Recent research shows that legally aided cases in family law are concluded more quickly than self funded ones. Using success rates as an outcome measure would tend to work against this element of efficiency by encouraging overservicing; and*
- 5. a loss in a legally aided court case can in fact be a win for the Justice System and the community in general. Not all legal aid clients are innocent.*

*For all of these reasons the Commission considers that a client satisfaction survey, or the number of cases where costs are awarded against legally assisted persons under S.47 of the LAC Act, may well be more appropriate outcome measures.*

*In relation to the remainder of the report the Commission appreciates the assistance of the Audit Office and will progressively adopt the suggestions. Some (for example those relating to the vision and mission statements) have been adopted in the current revision of the Corporate Plan. Time constraints mean that others (such as the examples of a Balanced Scorecard approach on pages 60 to 64) cannot be incorporated now but will be considered in future revisions of the plan.*

*(signed)*

Bill Grant  
Managing Director  
25 August 1999



# 1. Introduction

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## 1.1 Overview

Governments, the Parliament and the people are increasingly demanding that public sector organisations undertake their functions in the most economical, efficient and effective manner. Governments have addressed these demands through a range of mechanisms including contracting out, privatisation and an increasing emphasis on reporting key performance indicators about agencies' efficiency and effectiveness.

The past decade has thus led to more precise requirements for reporting through legislation and regulation and more scrutiny of agencies' published performance information. For example, the NSW Parliament in 1995 established a committee, the Public Bodies Review Committee (PBRC), to review and report to Parliament on the adequacy of annual reporting by NSW agencies.

However, performance indicators do not and should not stand alone. The development of performance indicators is not an end in itself but rather one part of a structure of governance and accountability. They provide a means to measure how well an entity has performed. They can also indicate whether strategic planning has been undertaken and is well focussed on the reason for the organisation existing.

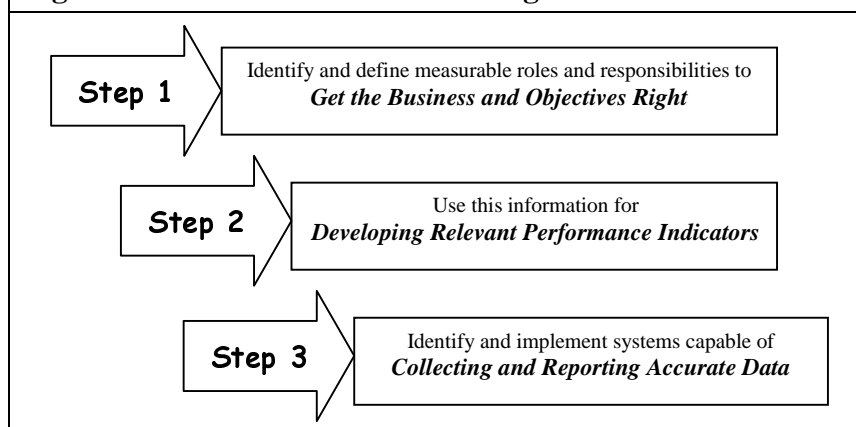
Good strategic planning provides the basis on which an effective performance measurement and reporting structure can be built. Too often strategic plans are developed for external edification rather than to provide a framework for focussing agency activities on achieving Parliament's intentions and desired outcomes.

Performance indicators are not an exact measure of achievement but rather provide an *indication* of agency performance. To be useful, performance indicators must exhibit certain characteristics: appropriateness, relevance, accuracy, timeliness, completeness and comprehensiveness.

In addition performance reporting needs to be at an appropriate level, concentrating on reporting against the primary purposes of the agency, program or activity. Agencies, in developing relevant performance indicators, should concentrate on reporting effectiveness and efficiency; such indicators are termed *key performance indicators* (KPIs).

KPIs are part of a process of defining and measuring agency performance. This process involves three stages as shown in Figure 1.



**Figure 1: A Performance Measuring Framework**

This report examines the elements involved with each of these steps, and uses the Legal Aid Commission (LAC) to illustrate the processes.

## 1.2 The Legal Aid Commission

### 1.2.1 Objectives and Service Delivery

The LAC is a statutory body responsible for providing legal aid and other legal services in accordance with the *Legal Aid Commission Act, 1979*. Its objective is to assist socially and economically disadvantaged people to understand and protect their rights. The LAC delivers its services through an organisational structure based on its three main programs; Criminal Law, General Law and Family Law.

The LAC provides free legal advice and minor assistance at its head office in Sydney, and in 19 regional offices throughout the State. It also provides information and advice through a toll-free telephone service for those unable to visit a legal aid office.

LAC also provides legal representation to clients in many areas of law. In 1997-98 LAC approved grants of legal aid in 114,428 matters.

Representation may be provided through the LAC's inhouse services (that is, solicitors employed by the LAC) or by private legal practitioners. In 1997-98 over half of all legally aided people were represented by private legal practices.

Not all NSW citizens are eligible for LAC services. To ensure that legal aid is provided to the most needy within the NSW community, applications for legal aid are assessed against LAC policies, guidelines and test criteria. When developing policies for State law matters the Commissioners consider a range of matters, including the need for legal aid to be accessible to disadvantaged people and the resources available to the LAC. (The Commonwealth Government decides the priorities and guidelines for Commonwealth law matters – this aspect is dealt with further below).

Legal aid is not always free; many recipients are required to make a contribution towards the costs of their legal services. The contribution may be by way of an up-front charge at the commencement of proceedings; it may also be a contribution (up to the total cost of legal proceedings) at the finalisation of the case. Contributions from legal aid recipients received by LAC in 1997-98 were \$6.59 million (against a total expenditure of \$88.5 million).

LAC derives from several other sources apart from direct client contributions. The main sources of funding in 1997-98 were the Commonwealth, \$31.1 million (46.6 percent of funds); the State Government, \$23.7 million (35.5 per cent); and the Trustees of the Law Society Solicitors' Trust and Statutory Interest Accounts \$11.9 million (17.9 percent).

### **1.2.2 The Commonwealth-State Agreement**

Since 1 July 1997 a new Commonwealth-State funding agreement has operated.<sup>3</sup> From this date the LAC can only use Commonwealth monies to provide legal aid for matters within NSW brought under Commonwealth legislation. Effectively LAC acts as an agent for the Commonwealth and is subject to Commonwealth policies and guidelines in the delivering of legal aid and is also subject to Commonwealth budgetary processes.

Apart from the direct effect of LAC being unable to exceed the amount allocated by the Commonwealth without express permission, the Commonwealth has its own reporting requirements with which LAC must comply. This has imposed requirements on LAC that it is currently attempting to address.

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<sup>3</sup> Prior to this date a joint funding agreement existed between the Commonwealth and the State following the merger in 1987 of the (Commonwealth) Australian Legal Aid Office with the (then) NSW LAC. Under this agreement the Commonwealth provided funding to the LAC for its general operations without regard to whether matters were brought under Commonwealth or State legislation.

The requirement that Commonwealth resources only be provided to assist matters brought under Commonwealth laws is an entirely new factor which has operational and service delivery considerations for LAC because it must now ensure that Commonwealth funds are spent only on matters arising under Commonwealth law.

The demand for LAC services however does not evenly equate between jurisdictions and law types. The majority of LAC services are within the Criminal Law program where most matters are brought under State laws. Family Law, on the other hand, falls mainly within Commonwealth jurisdiction. The relative proportion of matters brought by program and jurisdiction appears in Figure 2.

**Figure 2: Relative Service Demand by Program and Jurisdiction**

Criminal Law	General Law	Family Law
Commonwealth	Commonwealth	Commonwealth
State	State	
		State

## 1.3 The Audit

### 1.3.1 Background to the Audit

The LAC has achieved significant progress in developing its strategic planning and performance measurement framework. These achievements were recognised in the June 1998 report by the Public Bodies Review Committee of Parliament, which rated LAC's 1997 Annual Report highly.

Notwithstanding this progress and recognition of its achievements, LAC's senior management recognises that best practice both in accountability and performance improvement requires it to develop performance indicators which are appropriate, relevant and accurate.

To assist it in this process, LAC approached TAO to undertake a review of its existing performance indicators and suggest areas suitable for improvement.

TAO agreed to LAC's request as it was identified that the question of performance indicators raised issues with State-wide applicability. This audit also presented the opportunity to develop further the concepts of performance accountability raised in the previous TAO reports on Corporate Governance (and the subsequently issued guide to better practice) and School Accountability.<sup>4</sup>

### 1.3.2 Methodology

The audit made use of the methodologies developed in other jurisdictions to review performance information, particularly the methodology developed by the Office of the Auditor-General of Western Australia. The criteria developed for the audit are at Appendix 1.

This report follows the structure of the three-step process involved with defining and measuring agency performance as described earlier. However, a chapter that considers the issue of performance reporting at a government-wide level precedes this.

### 1.3.3 Cost

The total cost of the audit was \$114,428 comprising:

	\$
Direct salaries cost	69,451
Overhead charges	31,660
Value of unpaid staff time (at standard rates only)	6,817
Printing (estimate)	6,500
<b>Total Cost</b>	<b>114,428</b>

### 1.3.4 Acknowledgments

The Audit Office gratefully acknowledges the cooperation and assistance provided by representatives of the Legal Aid Commission. The audit team comprised Stephan Delaney and Stephen Horne.

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<sup>4</sup> *Corporate Governance Volume 1: In Principle and Volume 2: In Practice*, TAO Performance Audit, June, 1997; *On Board: Guide to better practice for public sector governing and advisory boards*, TAO 1998; *The School Accountability and Improvement Model*, TAO Performance Audit, May 1999.

## **2 Towards a Government-wide Framework for KPIs**

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## **2.1 Overview**

A lot of groundwork has been done in NSW to move towards improved performance accountability through the use of KPIs.

By legislation, NSW public sector agencies are required to publish performance indicators in their annual reports. However, no single unified approach or framework for KPIs has been adopted in the NSW public sector.

What individual agencies report, and how they measure what they choose to report, varies across the NSW public sector. No overall guiding framework, standards or methodology has been introduced to engender consistency in the types of KPIs reported by agencies or the methods used to produce such information. A government-wide framework would also assist efforts to group or combine performance information where outcomes depend on the combined efforts of multiple agencies.

Public reports by the NSW Council on the Cost of Government (COCOG) which provide aggregated performance information by major policy areas are a startling contrast to public reporting at the individual agency level, which is often scant in detail, lacking an outcomes focus and lacking a consistent basis across the public sector.

To advance public performance reporting at an agency level in NSW, three significant, and fundamental, issues must be addressed:

- what indicators will be used?
- where will they be published?
- how will they be validated?

## **2.2 Agency Annual Reports**

NSW departments and agencies are required by legislation to report to Parliament annually on their activities and financial performance. Regulations, Premier's Directions and Treasurer's Directions provide further guidance and detail on what agencies must report. The aim of these requirements is to enhance the accountability of agencies. The list of specific reporting requirements is extensive, requiring far more detail to be reported on some matters than is the case for the private sector.

At the request of Treasury, TAO undertakes annual reviews of agencies compliance with reporting requirements. This is a limited review of a selection of agency annual reports (Treasury selects the agencies to be reviewed) against a checklist of

reporting requirements. The TAO review does not examine in any depth the relevance, completeness or accuracy of performance measures reported, although examples of agencies adopting “better practice” are identified.

Similarly, the PBRC, which undertook in 1995 its first review of a selection of NSW agencies’ annual reports, found that there was a need for great improvement in State agencies reporting regimens. The PBRC found that few agencies were reporting useful performance information and that performance related terminology was poorly understood by agencies; reported outcomes were processes; outputs were often inputs; and there was a propensity of workload or activity measurement.

The PBRC issued guidelines to assist agencies and included checklists highlighting the issues and information that the Committee would be looking for in future reviews. These guidelines appear at Appendix 3. A further review was undertaken in 1998 with the PBRC reviewing the annual reports of ten NSW public sector bodies.<sup>5</sup> The Committee in this review indicated that progress in improving NSW performance reporting had been slow and considered only three of the annual reports examined were satisfactory.

## 2.3 Performance Measurement Frameworks and Methodologies

Developing performance measures for government has been a major area of study and debate. There are a variety of approaches to measuring and benchmarking public sector performance. Some of the many performance measurement processes current in effect which relate to NSW public sector agencies include:

- the use of performance indicators developed by agencies using various methodologies. At present there are two methodologies which seem to be particularly popular: program logic, and balanced scorecard (refer Appendix 4 for a brief outline of these approaches)
- the publication of *Program Statements* in the State Budget Papers<sup>6</sup>

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<sup>5</sup> *Results of the Committee’s Review of Ten Annual Reports*, Public Bodies Review Committee Report No.4, June 1998.

<sup>6</sup> During the finalisation of this report Treasury Circular 99/09 was issued, advising that from 1998-99 appropriation has been made at the agency level and not by individual programs. A draft paper has been prepared by Treasury proposing service and resource allocation agreements between Treasury and budget funded agencies, with clear statements of government policy as it relates to agency activities, agency objectives and performance indicators. Such agreements, however, are proposed to be confidential not public.

- the work of the Bureau of Industry Economics *International Benchmarking of Infrastructure* which publishes indicators of public sector agency performance
- NSW Treasury's annual report on *Performance of NSW Government Businesses*, which is underpinned by individual *Statements of Financial Performance* agreed in advance between each business and NSW Treasury
- the framework used by the *Steering Committee for the Review of Commonwealth/State Service Provision* and the *Steering Committee on National Performance Monitoring of Government Trading Enterprises* (under the auspices of the Council of Australian Governments [COAG]; refer Appendix 4)
- the *Total Quality* framework advocated by Premier's Department, based on the Australian Quality Awards criteria developed by the Australian Quality Council (refer Appendix 4)
- efficiency, productivity and performance assessment techniques being employed by NSW Treasury (such as data envelopment analysis [DEA], total factor productivity [TFP] and shareholder value analysis [SVA])
- efficiency, productivity, profitability and benchmarking analysis undertaken by the Independent Pricing and Regulatory Tribunal [IPART] with respect to regulated public utilities/services (and other areas of public sector activity as may be referred to IPART by the Government)
- *Service Efforts and Accomplishments* [SEA] reports produced by the NSW Council on the Cost of Government [COCOG]. These are the latest addition to the stable of performance reporting approaches currently operating in NSW (refer Appendix 4).

Whilst these different approaches to performance measurement currently operating in NSW might appear impressive, it might also lead to some confusion: both for agencies (in choosing which approach to use), and the community (in trying to synthesise and digest such an array of material). Should agencies use one of more of those approaches advocated by Treasury, or Premier's Department, or COAG, or COCOG? Perhaps agencies will continue to be left to develop their own indicators? If so, on what basis and via what process will they be prepared?



It could be argued that the indicators prepared for the national benchmarking project under COAG provide a standard national framework and format for reporting indicators of performance which can also be benchmark indicators facilitating comparison between the States. But some agencies consider that the new SEA reports provide a superior reporting framework and should provide the primary set of indicators to be used in NSW.

Collecting data for a myriad of reporting systems is complex and expensive. It thus makes sense for central agencies to promote one set or one combination of indicators for use by State agencies.

Changes currently being contemplated to the *Public Finance and Audit Act* provide an opportunity to make improvements to this area of public administration. Revisions to the Act could address the approach to be used to develop indicators (and how they are to be validated – discussed in the next section).

Premier's Department do not fully share The Audit Office's concern about the multi element aspect of current performance reporting arrangements. Taken as a whole, they feel these various arrangements constitute an overall framework. However, Premier's Department has indicated that a number of this elements are currently under review, including changes to NSW financial and annual reporting legislation, that will support new approaches to performance reporting within a government-wide context. Premier's Department also advise that current work to develop integrated service delivery plans also provides opportunity for a government-wide approach to strategic planning and reporting.

Premier's Department also do not share The Audit Office's concern for a more standardised basis and approach to be put in place for the development of KPIs by agencies. They consider that while there is value in a certain level of standardisation it is essential that agencies have flexibility to choose the most appropriate reporting methodology. Premier's Department notes that due to the disparate roles of agencies, their reporting requirement vary accordingly and that at present chief executive officers have a suite of performance measurement methodologist from which to select. However, they believe this occurs within an overall framework. The Audit Office is less confident that the community and Parliament is informed adequately by existing arrangements, particularly as regards the public accountability of individual agencies for their performance.

## **2.4 Validation of Performance Reporting**

Whatever approach to performance reporting is adopted, to achieve effective accountability it is vital that reported information be useful and reliable. But most performance reporting systems in public sector jurisdictions lack adequate independent assessment and validation of performance information. We thus find that some published performance indicators are wrong; some are misleading; some apparently conflict with other indicators; some seem not relevant to the task of assessing performance; some are changed from year to year – perhaps to improve reporting, perhaps to obfuscate.

It follows that users can be misled and misdirected as they search to understand the agency's view on its performance.

### **2.4.1 Best Practice Models**

The independent verification of performance information is a key feature of best practice models in several jurisdictions. Independent verification can assist users by interpreting the information provided and confirming that the information presented meets the desired characteristic for indicators; appropriate, relevant, timely, accurate, comprehensive and complete.

Independent verification of performance information also assists to deter the selective presentation of information; a phenomenon noticed where indicators are reported when favourable but disappear when poor.<sup>7</sup>

Much of the information presented by the recent initiatives while providing greater detail and more relevance is nevertheless unverified. COCOG identified the need for verification by noting:

The (SEA) data provided have not been audited and, therefore, cannot be vouched for by the Council. In future, to ensure that data are valid such that SEA indicators are robust will require auditing procedures.<sup>8</sup>

To achieve agency-level accountability, indicators must not only be accurate and reliable, but must also be relevant. The relevance of indicators should be reviewed and endorsed outside of the individual agency, either by the Minister in conjunction with stakeholders and beneficiaries, or by an appropriate independent body.

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<sup>7</sup> See comments in *Service Efforts and Accomplishments – Fisheries*, Council on the Cost of Government, January 1998, p6.

<sup>8</sup> *Ibid*, p7.

There are various examples of independent bodies that can undertake the independent verification of performance information. In the United Kingdom regulated privately owned water authorities are legally required to have their performance information validated by an accredited “reporter” who is engaged for the purpose.<sup>9</sup>

In a similar fashion, the Commonwealth Department of Veterans Affairs uses an independent audit organisation to validate the performance information on various functions.

A common approach has been to ascribe this role to Auditors-General. The legislated scope for such a role varies considerably between jurisdictions. Some are quite restricted.<sup>10</sup> However, Western Australia and New Zealand are jurisdictions that have taken a broad approach. Although similar, The West Australian mandate appears the broadest. The West Australian Auditor-General has the mandate to audit the accuracy of reported performance but also:

- to review relevance and appropriateness of the indicators to an agency’s principal objectives
- to opine on whether those objectives reflect the intentions of the agency’s primary legislation
- to advise on whether an adequate range of indicators is presented to users to assess performance.

The Western Australian legislation requires the Auditor-General to provide a formal written audit opinion for Parliament on the agency’s performance information. This opinion is published in each agency’s annual report.

This is a routine part of the annual audit cycle, in the same vein as routine audit of financial information. Thus performance information, which is arguably of greater interest and relevance to the community, is treated with equal importance to financial information.

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<sup>9</sup> Sydney Water has negotiated an agreement with the UK regulator (Opwat UK) to benchmark its services against the UK standards.

<sup>10</sup> For example, the Tasmanian and ACT Auditors-General are authorised to audit the accuracy of agency performance information but not its appropriateness, relevance or completeness.

## 2.4.2 Current NSW Practices

Presently only limited independent reviewing of performance information for individual agencies occurs in NSW. The Public Bodies Review Committee (PBRC), monitors compliance with legislative requirements for departments' and agencies' annual reports. The PBRC has found that progress in improving NSW performance reporting has been slow. However, resources limit the number of reports that the PBRC can review at any one time.

The Auditor-General does not presently have a mandate to audit performance information as part of the financial audit. The NSW Treasury engages TAO to undertake annual reviews of a small selection of agency annual reports (Treasury selects the agencies to be reviewed) against a checklist of reporting requirements. This review does not examine in any depth the relevance, completeness or accuracy of performance measures reported.

The Auditor-General may undertake a special audit of agencies' performance reporting. This report and the earlier report on the NSW public school accountability model represents the outcome of two such special audits.<sup>11</sup>



Changes to the *Public Finance and Audit Act* currently being mooted would, as it relates to performance indicators, extend the financial audit mandate in NSW to that currently in practise in the ACT and Tasmania. This would provide for independent validation of the accuracy of performance information reported by agencies. However, it would not bring NSW up to what is viewed by some as the best practice standard which has been set by the Western Australian Parliament, where independent validation extends to ensuring that agencies report meaningful, as well as reliable, performance information.

Premier's Department do not see a requirement to enhance the current legislative framework. They advise that there will be continuing effort to develop appropriate means to validate performance reporting against the Government's priorities for service delivery.

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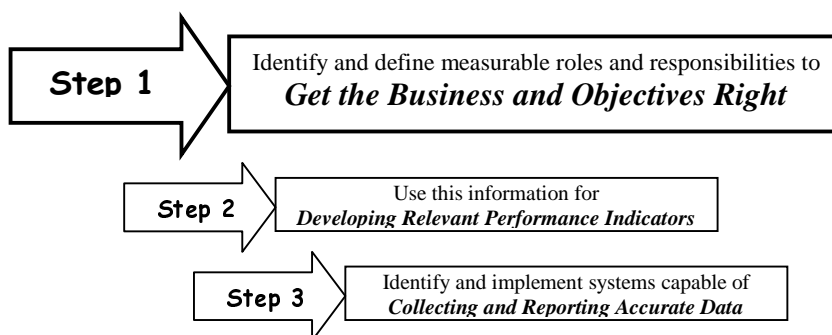
<sup>11</sup> *The School Accountability and Improvement Model*, The Audit Office of New South Wales, May 1999.

### **3 Step 1: Getting the Business and Objectives Right**

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### 3.1 Overview

Moving to the agency level, KPIs are part of a process of defining and measuring agency performance, which can be represented in three stages as illustrated below. Chapters 3 to 5 discuss each of these elements in turn, setting out best practice principles and providing practical illustration by reference to the Legal Aid Commission case study.



In effective organisations there is a strong relationship between the strategic planning process and the reporting of achievements through KPIs. The strategic planning process must focus the organisation on achieving specific outcomes.

Defining agency objectives and identifying desired outcomes in a way which allows measurement is basic to developing performance information. However, defining specifically desired outcomes may be the most difficult part of the process. Audits of performance information undertaken in other jurisdictions find many agencies are unclear about their primary objectives and exactly what they are intended to achieve. Some have been found to be undertaking functions not envisaged by the agency's enabling legislation.

A lack of focus on primary outcomes is not surprising given that the provision of government services is an evolutionary and incremental process. Initial functions expand as society creates new needs, and the demand for established functions may decline over time. Often this process occurs without consideration of a commensurate change in the legislation supporting agencies. An effective strategic planning process will keep tight links between intended and actual activities.

## **3.2 Strategic Planning**

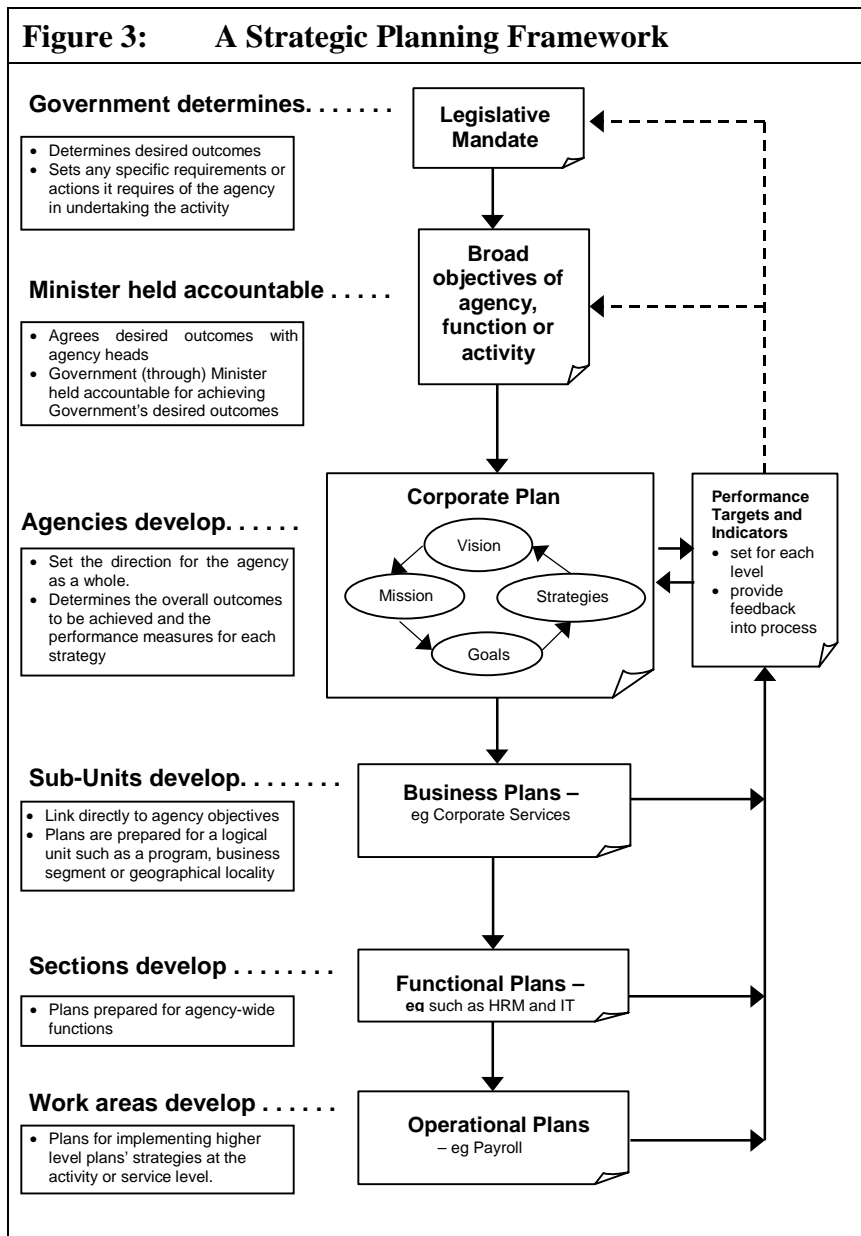
Strategic planning is about getting the business and objectives of the organisation right. A strategic planning framework:

- allows an organisation to decide how best to achieve its objectives from alternative strategies and activities
- provides a rational basis on which to determine priorities between different and often competing objectives
- is a way of ensuring that resources are well targeted and used efficiently.

An effective strategic planning framework requires the organisation to develop knowledge of its environment, the expectations of its stakeholders, the constraints imposed on it by legislation, and the resources at its disposal. Government departments must also engage with their Minister in defining these factors and in articulating objectives to be pursued and expectations to be met.

From knowledge so gained the organisation can define its objectives and specific outcomes to be achieved. The process of determining what to achieve will then dictate what should be measured.

There are various methodologies that organisations can use to implement strategic planning (refer Appendix 4). To ensure that all relevant factors are adequately considered the most effective strategic planning is undertaken in a structured manner. Figure 3 shows a generic strategic planning framework.



These elements are now briefly discussed.



### 3.2.1 Outcomes and Government's Intentions

**Legislative  
Mandate**

The process of determining the objectives and desired outcomes for public sector agencies begins with a clear understanding of the Government's intentions in creating the agency, program or function.

The NSW public sector undertakes functions and achieves outcomes that have been determined by the Government (and passed by the Parliament if laws are required). Enabling legislation states the roles, responsibilities and functions and the specific requirements that government requires in respect of agencies and the functions they undertake.

Although legislation sets the groundwork for an agency to undertake a particular program or activity, it mostly does not dictate (aside from in the broadest terms) the actual methodology to be used to achieve the Government's desired outcomes. This is left to the agency to develop after considering the views of other stakeholders, the needs of the users or recipients of the program or activity, and any constraints imposed by the environment, technology and resourcing. All of these factors will influence the manner in which the agency delivers its services and outputs.

**Broad objectives  
of agency, function  
or activity**

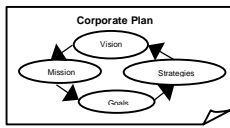
The Government decides the desired outcomes that it requires and a common understanding of the broad objectives for the agency, function or activity should be developed between the relevant Minister and the department or agency head. The Parliament will hold the Government accountable (through the relevant Minister) for the desired outcomes that the Government has set for the agency, function or activity. And the department or agency head will be accountable to the Minister for the outcomes achieved.

It is often the case that an agency may not be able to achieve directly the outcomes intended by the Government, but may provide an output that is an intermediate step in achieving that outcome.<sup>12</sup> There may be several intermediate outputs and outcomes before the desired ultimate outcome is achieved. Agencies may not have full control over the ultimate outcome but may only influence towards that outcome. (The concept of intermediate outcomes is discussed in Appendix 4.)

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<sup>12</sup> One example, developed by the United States Coast Guard, goes so far as to state that outcome goals must extend beyond what the program/agency controls. It states that, by definition, things you can control are not outcomes. See *Using Outcome Information to Redirect Programs*, United States Coast Guard, Office of Marine Safety, Security and Environmental protection, April 1996 p17.

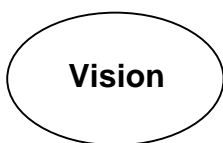
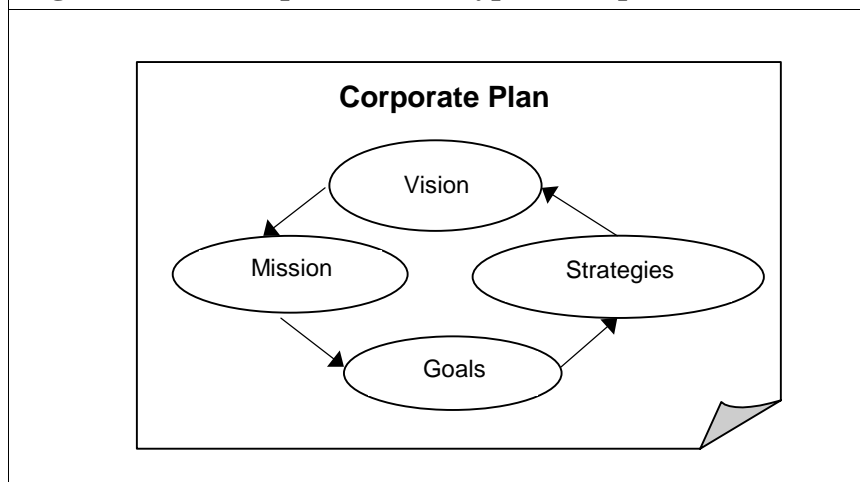
### 3.2.2 Developing a Corporate Plan<sup>13</sup>



The visible output of an agency's strategic planning process is the corporate plan. The corporate plan expounds the role and responsibilities of the agency distilled from its analysis of parliament's requirements and that of other stakeholders.

The corporate plan usually comprises several segments; these are shown in Figure 4. A number of subsidiary business, functional and operational plans usually support the corporate plan.

**Figure 4: Components of a Typical Corporate Plan**



The *vision statement* is an essential element of the strategic planning process. A vision statement is an inspiring picture of what an agency believes is an ideal future for its stakeholders and should succinctly encapsulate the intent of the agency's enabling legislation. As such it should provide a statement of the ultimate desired outcome set for the agency.

The vision statement encapsulates the idea that an agency aspires to, although it may not ever be achieved.<sup>14</sup>

<sup>13</sup> This section uses material developed by the State of Utah in its strategic planning framework available at the Utah State's Internet site – <http://www.governor.state.ut.us/planning.howto.htm>.

<sup>14</sup> This relates back to the concept of a hierarchy of outcomes. The ultimate desired outcome may not be one that the agency alone can achieve. The agency's role may be one only of contribution to and influence on the achievement of the desired outcome.

**Figure 5: Examples of Vision Statements**

**The Sydney Institute of Technology will be the preferred provider of high quality vocational education and training in Sydney, New South Wales and the Asia-Pacific region.**

*- Sydney Institute of Technology*

**Australia will be recognised as a leader in comprehensive integrated and effective emergency management with aware and prepared communities able to cope with disasters.**

*- Emergency Management Australia*

**We'll lead in community services. Looking towards 2001 and beyond you will see DoCS as a vital part of a strong community, rich in social capital, which works together to solve its own problems. We are a key link in a system which makes sure that people who need community services get what they want.**

**As the government agency empowered to protect the best interests of children, DoCS will be a byword for quality service which secures the safety and well being of our children.**

**People with intellectual disabilities who seek our assistance will enjoy good health, well being and the same opportunities for independence of full members of our community.**

**As an organisation, DoCS will be the place to work. Our people will give their best and be recognised for their achievements and leadership.**

*- NSW Department of Community Services*

**Mission**

Another fundamental component of a typical corporate plan is the *mission statement*. A mission statement describes the overall role of the agency in achieving its vision. It forms the link that will translate the vision into agency-specific activities.

The mission must be clearly understandable by stakeholders (the Parliament, public, customers and staff) and should at a minimum answer the following questions:

- As an agency who are our clients and customers?
- What are the basic purposes for our existence?
- What basic actions are we to undertake?

- What makes our purpose unique?
- Is the mission in harmony with the agency's enabling legislation?

An agency should identify the answers to these questions from the analysis that it undertakes as part of the strategic planning process. Ideally, at a maximum of no more than three or four sentences, the mission statement will present this information in a format that enables all stakeholders to relate to the agency's intent towards achieving the vision and desired outcomes.

**Figure 6: Examples of Mission Statements**

**To provide a safe, secure, fair and humane Correctional System which reduces offending behaviour, promotes restitution by offenders to victims of crime and reparation to the community.**

*- NSW Department of Corrective Services*

**In the delivery of the best transport outcomes we will balance the needs of public transport passengers, cyclists, pedestrians, motorists and commercial vehicles**

**We will do this by:**

- **Placing our customers' needs first**
- **Working with innovation, openness and integrity**
- **Achieving value for money**
- **Being environmentally responsible.**

*- NSW Roads and Transit Authority*

**Our mission is to reduce the impact of disasters and emergencies in Australia and its region.**

*- Emergency Management Australia*

**We exist to support the delivery of quality health care to all Australian residents. We provide the Australian community with convenient and easy access to government benefit payments and a comprehensive range of top quality health insurance products. We also provide advice to the Commonwealth Government and consultancy services to international markets on health insurance administration.**

*- Health Insurance Commission*

**To make people happy.**

*- Disney Corporation*

## Goals

*Corporate goals* or corporate objectives are the general ends toward which the agency directs its efforts. They are the components that make up the mission of the agency and enable it to move towards its vision.

A goal addresses issues by stating policy intention; they are issue-oriented statements that reflect the realistic priorities of the agency. Goals are both qualitative and quantifiable, which stretch and challenge the agency, but should remain realistic and achievable. Goals should be client-focused, address the primary external and internal issues facing the organisation, and be easily understood by the public.

Ideally agency goals should address the following questions:

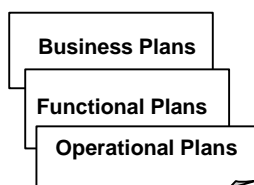
- Are the goals in harmony with the agency's vision and mission statements?
- Will achievement of the goals fulfil or help fulfil the agency's mission?
- Is achievement of the goals measurable in a qualitative and quantifiable way?
- Do the goals reflect response to client needs?
- Do the goals provide a clear direction for agency action?
- Are the goals unrestricted by time?
- Do goals reflect agency priorities?

## Strategies

*Strategies* are the means by which the agency will achieve its goals. Each goal will have at least one strategy and may have several. Strategies may aim at achieving a single goal or may contribute towards more than one. Similarly, a strategy may contribute only partly towards the achievement of a goal.

Strategies included in corporate plans would have been part of a process of ranking, analysis and culling before being finally agreed on. Strategies included in corporate plans represent an agency's considered opinion of the best method to achieve its goals, mission and ultimately, its vision.

The agency will set performance targets and performance indicators for each strategy. This aspect of the process will be discussed in the next chapter.



Agencies will develop subsidiary plans to support the corporate plan. Subsidiary plans may comprise:

- *business plans* developed along administrative or organisational units within agencies, for example business plans may be developed for programs or for regional offices.
- *functional plans* developed for major functions or activities within an agency. Common examples of function-based plans are information technology and human resource management plans.
- *operational plans* for work groups and teams, for example a payroll section.

At whatever level agencies develop subsidiary plans, their aim is to identify each significant element of the agency and that element's contribution towards achieving agency objectives.

Subsidiary plans represent planning at the micro level. They are the means by which agencies implement the broad strategies contained in their corporate plan. Subsidiary plans generally contain more detailed and specific strategies or actions and may include individual activities and tasks.

All levels of strategic planning that is well focussed and developed will share the same characteristic: the indicators required to measure achievement of objectives will flow directly from the identified desired outcomes and strategies.



### 3.3 LAC Case Study

#### 3.3.1 The Legislative Basis for Legal Aid in NSW

The LAC's enabling legislation is the *Legal Aid Commission Act 1979* (the Act). The Act stipulates that the principal function of the LAC is to provide legal aid and other legal services in accordance with the Act.

In undertaking its functions the Act specifies duties that the LAC must meet in undertaking its functions. For example:

- the LAC must ensure that legal aid is provided in the most effective, efficient and economical manner
- the LAC is required to have regard to the need for legal aid to be readily available and easily accessible to disadvantaged persons throughout NSW
- emphasis is placed on education and information dissemination, to ensure that citizens are aware of their rights.

In reviewing the performance of the LAC, this audit assumes that Parliament expects LAC to incorporate these elements into its strategic planning process and form the basis of its performance reporting.

#### Identifying Clients

The legislation has an important role in the determination of the entitlement to legal assistance and in identifying LAC's clients. The Second Reading Speeches when the legislation was first introduced to Parliament show that emphasis is to be placed on assisting disadvantaged citizens. The then Attorney-General stated the Government's objectives in providing legal aid were:

Simply to provide the means by which all citizens might have the same practical access to courts, and to achieve equality before the law. Reasonable limits must be imposed on what it will spend on this, but within those limits the Government will, without apology, commit whatever resources it can to the removal of injustice against its helpless fellows.

The Attorney-General declared that legal aid was a welfare service designed to address an identified deficiency in the justice system:

The policy of the Government is that an adequate legal aid system is a social essential. It is pointless to have legal rights if one cannot afford to pursue them in the Courts. Without extensive legal aid justice becomes the prerogative of a privileged minority, and the process of the law become a weapon that the rich can use against the poor with impunity. Both the judicial system and the legal profession suffer from the lack of public confidence that results.

Legal aid therefore aims to provide various types of assistance to the disadvantaged in our society who would otherwise be unaware of their rights and be unable to enforce those rights.

Eligibility for legal assistance is determined through the implementation of LAC policies, guidelines and test criteria for State law matters.<sup>15</sup> Three tests may be applied to applicants; these are:

- a means test – that considers the income and assets of the applicant for legal aid (this is not applied in the first instance for alleged criminal offences)
- a jurisdiction test – that considers the type of case and the area of law for which aid is sought. Applications must be in areas where legal aid is available.
- a merit test – that considers whether the case is likely to succeed and justifies the grant of legal aid.

Not all LAC services are subject to these tests. For example, public education programs are not subject to test criteria. Similarly, legal advice (whether in person or by the telephone service) is available to all NSW citizens.

More comprehensive services such as representation of a client are subject to the above tests. However, natural justice and the principles underpinning our legal system modify the strict application of these tests. For example, our justice system operates on the principle that those accused of a criminal offence are considered innocent until proved guilty. As a result, the means test is not applied for a first hearing of charges against an accused (when applications for bail are usually made). Also, the merit test is not applied in the first instance for criminal cases, because this would deny justice to the accused. (However, legal assistance after a first hearing of charges will be subject to the means test. And a merit test applies for criminal appeals cases.)<sup>16</sup>

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<sup>15</sup> The Commonwealth Government decides the priorities and sets guidelines for Commonwealth legal aid monies. LAC applies the Commonwealth tests to applications made under Commonwealth law.

<sup>16</sup> The Mental Health Advocacy Service is another area where strict guidelines are not enforced. Clients availing themselves of this service are amongst the most disadvantaged and disenfranchised in the State – and the most unable to know about and be able to enforce their rights. They present special needs and so LAC exempts them from the means and merit tests. There are other exemptions allowed to the test criteria; these are discussed briefly in Appendix 3.



A further consideration in identifying LAC clients is the role of private practitioners in providing legal aid. Although legislation establishes the LAC to oversee legal aid in NSW, it also envisages a joint delivery of the services. The role is shared between LAC-employed lawyers and private practitioners.

People may engage a private practitioner to act on their behalf but apply to LAC for assistance in meeting the expenses of their action. LAC does not have resources to situate staff in all location within the State. LAC will engage private practitioners to deliver services when applications are granted in areas where LAC-employed lawyers are not available. In these instances the private practitioner is LAC's service delivery partner, this situation raises a different set of needs and requirements which LAC must consider when undertaking its strategic planning.<sup>17</sup>

### **3.3.2 LAC's Strategic Planning**

The LAC is committed to improving continually the manner in which it delivers its services and has a well-developed strategic planning capacity. It produced its first Corporate Plan in 1993. The current Corporate Plan for 1995-98 is scheduled to be reviewed and revised by LAC in the near future.

The Corporate Plan is supported in several areas by business plans. For example, regional offices have produced business plans to a program level.

The LAC's strategic plans contain the components that link Parliament's intentions and expectations (as contained in the Act) to the actual achievement of the desired outcomes. Those components include: vision and mission statements; goals and objectives; strategies; inputs, processes and outputs.

The LAC's vision statement is

To be the pre-eminent legal aid service in Australia and a model of excellence in public sector management and service delivery.

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<sup>17</sup> The legal professional bodies (the NSW Law Society and the NSW Bar Association) are another stakeholder involved in this process. While representing the interests of private practitioners these bodies also affect the manner in which LAC-employed lawyers undertake their activities through their requirements that the latter conform to professional standards and ethics.



The LAC’s vision statement identifies its objective to achieve best practice and to be a leader in its field. Whilst vision statements should embrace excellence, they should focus upon client outcomes and service standards, rather than on the organisation.

Agency-related goals fit well within the mission statement. The LAC could further develop its vision statement to include mention of the desired future that it sees for its clients, the users of legal aid. Some of the elements that could be included in the vision statement are currently contained in LAC’s mission statement. Rearranging these elements across the two statements could enhance both.

The 1995-98 Corporate Plan states the Commission’s mission to be:

To assist disadvantaged people to understand, protect and enforce their legal rights and interests by promoting access to the legal system and encouraging the use of alternative dispute resolution.

This mission statement articulates Parliament’s intentions that the disadvantaged are the main recipients of its services. It also encapsulates Parliament’s desire for the disadvantaged to be informed and educated on their rights as well as being assisted to enforce those rights.



Table 1 compares the mission statement to the criteria mentioned previously. Although LAC might consider further developing its mission statement to describe how its role in the justice system is unique, the mission statement generally is well developed.

As an agency whom do we serve?	●
What are the basic purposes for which we exist?	●
What basic actions are we to undertake?	●
What makes our purpose unique?	⊙
Mission in harmony with legislation?	●

● Addressed in statement

⊙ Further development is possible

As part of its 1995-98 Corporate Plan LAC identified six goals for achieving its vision and mission, those goals are:

1. To facilitate delivery of high quality legal aid services in a variety of innovative ways.
2. To encourage the use of litigation as a last resort for dispute resolution, by providing high quality specialist legal education and by promoting alternative dispute resolution.
3. To play a major participative role in reforms to improve access to law, particularly for disadvantaged groups.
4. To build a legal practice which, in its quality of service delivery, its professionalism, integrity and focus on clients, is publicly recognised as commensurate with the best law firms, nationally and internationally.
5. To attract and retain quality staff at all levels.
6. To deliver value for money in the use of public resources and demonstrate clear accountability for their effective, efficient and economic use.



A comparison of these corporate goals against the criteria previously mentioned appears in Table 2. There is some opportunity for further development but LAC's corporate goals generally conform well to the desirable criteria.

<b>Goal:</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
Goal is in harmony with vision and mission statements	●	●	●	●	●	●
Goal achievement fulfils or helps to fulfil the agency's mission	●	●	●	●	●	●
Goal qualitatively and quantitatively measurable	●	●	●	●	●	●
Goal reflects response to client needs.	●	●	●	●	●	●
Goal provides clear direction for agency action.	⊙	●	⊙	●	●	●
Goal unrestricted by time.	●	●	●	●	●	●
Goal reflects agency priorities.	●	●	●	●	●	●

● Addressed in goals

⊙ Further development possible

### **3.3.3 LAC Outputs and Outcomes**

The LAC implements its corporate goals and delivers its services through the three legal category areas; Criminal Law, General Law and Family Law. Within each program a variety of services to clients comprise LAC's outputs. Each output (activity) group can be related to an intermediate outcome. All intermediate outcomes should contribute towards LAC's ultimate outcome as contained in its vision and mission statements.

Public education and publications aim to disseminate information to the broad community on individual's rights. These activities aim to provide residents with sufficient general information to assist them gauge their need for more detailed information.

Legal advising services are available at LAC offices and through a telephone advisory service. Legal advising services complement LAC publications and public education activities by providing a source where residents can obtain further general information or clarify points on which they might be unclear.

In addition to providing a general advising service, LAC staff are available to discuss clients' specific legal questions and provide brief advice on what actions are available to those clients. Minor assistance may also be provided whereby LAC staff assist clients to prepare draft correspondence or to complete court documents.

Advocacy and representation are the legal aid services which the general public appear most to associate with LAC. These services involve LAC staff or agents appearing in a court or tribunal on behalf of the LAC client.

Legal aid advocacy and representation aims to help ensure that legally assisted clients have a sufficient ability to prosecute or defend their rights. Although the client probably considers the actual result of their legal action as the only relevant outcome, in the context of the Government providing legal aid there are also other aims and objectives.



The justice system exists to hear and determine the outcome of legal actions on the basis of the evidence presented. It is ultimately the judge or the jury that will make this decision. That decision may be affected by many factors, including:

- the merits of each party's case and the strength of supporting evidence
- the proficiency of legal advocates for both parties.

The distinction between the outcome of the case and the calibre of the representation and advocacy provided to legally assisted clients is an important one. Whilst LAC cannot fully control outcomes in the court, neither can any legal representative. This should not mean that outcomes are not important (just ask the clients!). Few organisations directly control outcomes. From the client's perspective, just as for any legal representative the LAC should be expected to win cases that they could win. Thus whilst measuring LAC outcomes in terms of success in court needs to be viewed with caution, such indicators are important. Surrogate indicators which measure quality of service and quality of staff may also be useful, but do not adequately substitute for measuring actual results.

The Audit Office readily acknowledges that there may be difficulty with using outcome indicators such as the percentage of cases won. These difficulties are not a reason not to seek to measure outcomes, although they do need to be addressed carefully. For example, it could be possible to improve performance statistics by tightening the criteria for granting legal aid.<sup>18</sup> Tightening criteria might improve short-term results but could affect adversely the objective of ensuring the disadvantaged are able to protect and enforce their rights.<sup>19</sup>

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<sup>18</sup> This is occurring already with the Commonwealth's requirements for providing legal aid funding being tighter than those for the State. For matters under Commonwealth law the LAC must apply the "reasonable prospects of success" test. To satisfy this test, the proposed proceedings for which legal aid funding is sought must be more likely to succeed than not. See Appendix 2 for further information on the criteria used to determine applications for legal aid.

<sup>19</sup> Anecdotal evidence suggests that this is occurring in the Family Law area with cutbacks to Commonwealth funding adversely affecting women and children. Although the Commonwealth is addressing this issue, concerns remain.



In practical terms measuring the percentage of cases won is currently difficult because there is a lack of data available against which to compare LAC's success rates. Neither private law firms nor legal aid organisations in other jurisdictions apparently readily publicly disclose such performance information. And private law firms acknowledge that success of activities is not necessarily defined in terms of how many court cases are won.<sup>20</sup>

Whilst there might be doubts about the validity of comparing LAC success rates to those of private legal firms, allowing for differences amongst jurisdictions it could be valid to compare LAC results to those of legal aid organisations in other jurisdictions.

The Audit Office acknowledges that there are measurement difficulties involved with directly addressing case outcomes, and that it might be argued what the best outcome measure/s for the provision of legal aid services are. Even so, The Audit Office is of the view that it is nonetheless necessary for LAC to seek to develop outcome measures to supplement the quality of service indicators it currently produces. Surrogate indicators (of service quality) should only be a short-term substitute. (The next chapter discusses some of the potential surrogate indicators available)

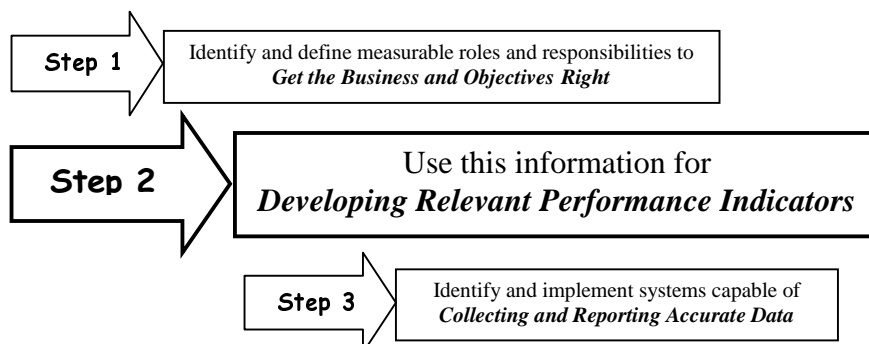
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<sup>20</sup> 1997-98 Pro Bono Report, Freehill Hollingdale & Page, p6. Obtained from their website at <http://www.fhp.com.au/about/probono/probonotext.htm>.

## **4 Step 2: Developing Relevant Performance Indicators**

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## 4.1 Overview



Performance information does not exist in isolation and is not an end in itself. Rather it provides a tool that allows opinions to be formed and decisions made. Users' needs vary depending on the purpose performance information is needed.

Agencies through their strategic planning process should identify the information needs of their stakeholders. Similarly, agencies will need to focus on reporting results against the important and prioritised areas identified by their strategic planning process.

## 4.2 Appropriateness and Relevance

Performance indicators are just that: an *indication* of organisational achievement. They are not an exact measure, and individual indicators should not be taken to provide a conclusive picture on an agency's achievements. A suite of relevant indicators is usually required, and even then an interpretation of their results is needed to make sense of the indicators.

Performance indicators that are useful exhibit a number of characteristics; these characteristics are:

- appropriateness
- relevance
- timeliness
- accuracy
- completeness and comprehensiveness.



### 4.2.1 Appropriateness

Performance indicators should be **appropriate** for the purpose for which they are used. Appropriateness relates to the user's ability to relate the information provided back to the organisation's objectives and to assess achievement against those objectives.

Appropriateness will depend on what is to be measured, because there may be several methods of measurement available. An effective strategic planning process will assist agencies in the process of determining what are appropriate measures.

For example, if an agency identifies a key objective as being customer service, then it should measure this aspect. It needs to develop performance indicators that measure the components normally associated with "customer service": timeliness, quality, performance and service. An agency with an objective of improving customer service in some measurable way would develop strategies to address these components. Measuring the success of those strategies in improving timeliness, quality and cost would relate back to the agency's vision, mission and objectives.

### 4.2.2 Relevance

Performance indicators must be **relevant** to the user's needs. The user must be capable of using the information provided for their purpose.

In this respect agencies should report **key performance indicators** when providing information to users. A key performance indicator is one that relates to the primary purpose of the agency, program or activity.

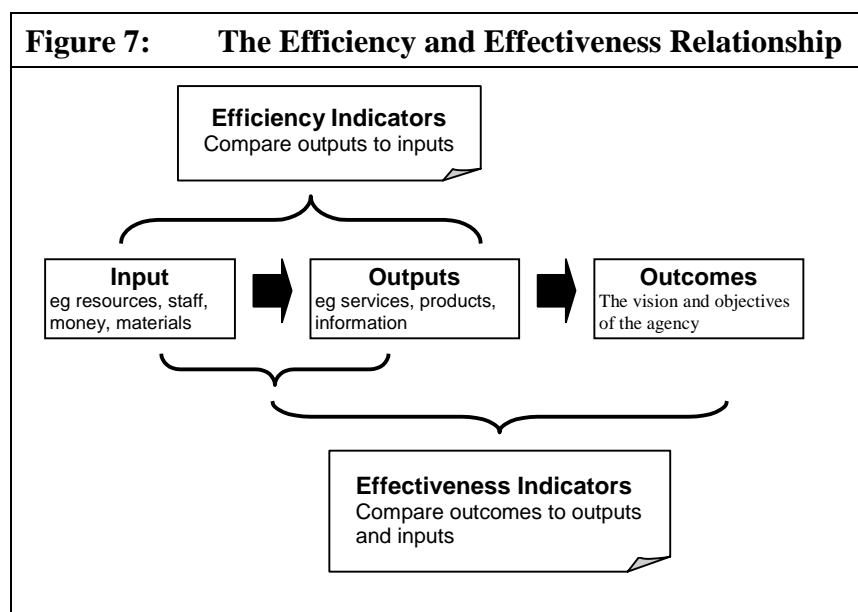
Key performance indicators concentrate on reporting high level results such as outcomes and effectiveness or efficiency measures, not on reporting operational activities, throughput and other measures of how busy the agency has been.

An **efficiency indicator** relates resources used by an agency to the output it produced from those resources. It is a measure of how well an agency's resources are used.

**Effectiveness indicators** relate agency inputs and outputs to the outcomes produced. To be relevant, effectiveness indicators must show a significant causal relationship between agency outputs and the outcomes being measured. This suggests that

the agency will have a certain degree of control over the area being measured. In common with private sector entities, a government agency might not control but might only influence a desired outcome. In such instances a direct relationship between the outcome being influenced and the outputs of the agency would have to be shown, if the indicator is to be considered relevant.

The following diagram shows the relationships amongst input, output and outcomes to efficiency and effectiveness indicators.



Whichever indicator is presented, whether efficiency or effectiveness, it should be measuring performance and not “busyness”. Table 3 illustrates the difference between being busy and performing and highlights that being busy does not equal being effective.

“Busyness” statistics	Performance indicators
Number of cars manufactured in a week	Percentage of cars that are road-safe after one month’s driving
Number of children who attend swimming classes in a month	Percentage of children who can swim after one month
Number of enquiries answered in a week	Percentage of enquirers who received quick, accurate information
Number of seminars conducted in a month	Percentage of participants who rated seminars as very useful
Number of reports prepared in a week	Percentage of reports rated as satisfactory

Source: *Planning and monitoring your program – First steps in program evaluation*, Office of Public Management NSW Premier’s Department, 1992

p 47.

### **4.2.3 Timeliness**

Agencies should present performance information in a timely manner. This means indicators should report the most recent data available. Historical data is useful for comparison purposes (for example, to show changes in performance over time) but alone does not show recent achievements.

### **4.2.4 Accuracy**

Performance information must reflect the situation as truthful and as free from error as possible. Often it is impossible to develop exact measures of achievement and estimates might be used. In such instances, to avoid misleading or misrepresenting information agencies should identify clearly that they are using estimates.

### **4.2.5 Completeness and Comprehensiveness**

To provide a true indication of performance, indicators have to be complete and comprehensive. There may be many ways to measure a particular objective. It is also generally true that no single measure will provide a complete picture of an agency's performance. It may take two or three, or more, indicators presented in conjunction to show a true picture of achievement.

Comprehensiveness will also require that agencies present a mixture of quantitative and qualitative measures.

### **4.2.6 Quantitative and Qualitative Indicators**

Performance indicators are generally divided into two groups:

- quantitative indicators
- qualitative indicators.

**Quantitative indicators** present performance information in numerical terms such as a number of case, the percent of examples that achieve targets and cost indices measuring the relative changes in agencies' costs over time.

**Qualitative indicators** are descriptive and present information by narration. Qualitative indicators are generally less precise than the numerically precise quantitative indicators, being based on judgments or opinions. Notwithstanding these limitations, a well-balanced performance report will typically contain a mixture of both quantitative and qualitative information.



## 4.3 LAC Case Study

### 4.3.1 Measures of Effectiveness

Discussion in the previous Chapter identified LAC's mission as being to assist disadvantaged people to understand, protect and enforce their legal rights and interests by promoting access to the legal system and encouraging the use of alternative dispute resolution. The mission statement is strongly outcomes focussed. To be relevant and appropriate LAC effectiveness indicators will need to measure a number of aspects of this statement to identify LAC's achievements.

Appropriate and relevant indicators of effectiveness will:

- relate to measures of LAC's achievement in targeting legal aid to *disadvantaged people*
- relate to LAC's achievement in promoting *access to the legal system* of its clients. This will include the quality of service provided to clients and client satisfaction with that service
- relate to efforts to promote alternative dispute resolution.

#### Access to Services

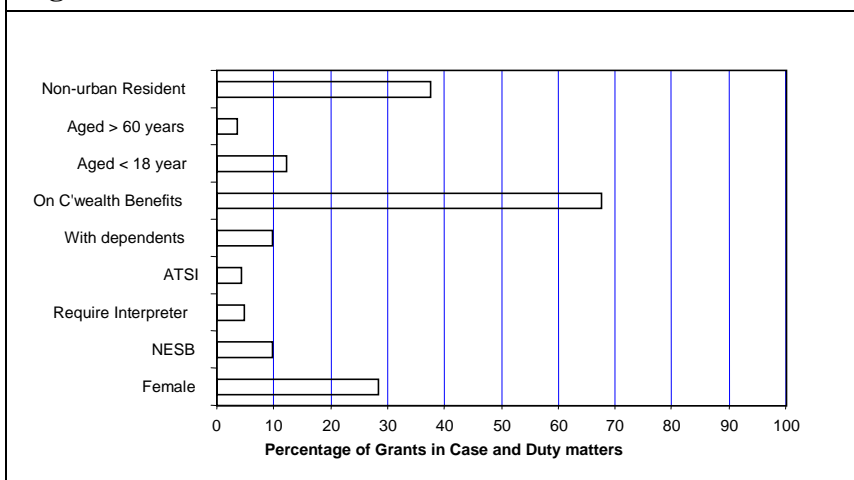
LAC targeting of services toward disadvantaged persons is undertaken through the means, merit and jurisdiction tests applied to legal aid applications. The take-up rate for services within its target client base is an important measure of the agency's success in reaching its target clients.

However, it is difficult to determine the take-up rate for legal aid because it is uncertain who in the population are aware of their eligibility for services. People might be unaware of their eligibility and might not apply for LAC services (possible measurement of this aspect is discussed later). There are costs and time involved in determining the extent of LAC's potential client base. As a result various surrogate measures are used.

#### Client Profile

LAC developed a profile of clients receiving legal aid. The client profile gives a dissection by gender, cultural background, age marital status, income and geography. An example of the client profile is shown in Figure 8.

**Figure 8: Client Profile LAC 1997-98**



Source: developed by TAO from data in LAC *Annual Report 1997-1998*.

Although not a complete picture of LAC's clients (at present data on some LAC activities is limited) the client profile provides a useful indication of the types of persons receiving legal aid.



LAC could consider enhancing the indicator further by relating the profile to available statistics on poverty and need (suitable data might be available from the Australian Bureau of Statistics). This would show very clearly the emphasis being placed by LAC on targeting legal assistance to those most disadvantaged.<sup>21</sup>

### *Refusal Rates*

LAC uses refusal rates as a measure of the availability of its services to the public. The refusal rate is simply the proportion of applications for aid that are rejected as not meeting one or more of the test criteria or the LAC guidelines. The refusal rates in 1997-98 for LAC as a whole and for its three major service areas (Criminal Law, Family Law and General Law) appears in Table 4.

<sup>21</sup> One of the indicators requested by the Commonwealth is that State Legal Aid Commissions report on initial applications from special interest groups. This is a similar measure to LAC client profiles but presents the information as a percentage of the State's population. However, a more meaningful indicator would be to relate applications from special interest groups to a measure of their propensity of need in the general community.

**Table 4: Refusal Rates by Program for 1997-98**

Criminal Law	7.0%
Family Law	27.5%
General Law	12.9%
Total – All Programs	10.2%

Source: LAC Annual Report 1998



Refusal rates do not provide a complete picture. A low refusal rate can result if LAC has an effective public information activity, which increases the awareness of LAC's criteria for granting aid. In such instances persons ineligible will not submit applications for legal aid and so reduce the rejection rates. A low refusal rate will also result if eligible persons do not apply because inter alia they think they are ineligible.

Nevertheless, LAC advised that measuring refusal rates is necessary because of the costs involved in processing applications or providing advice to potential clients about their eligibility for legal aid assistance. Currently this aspect of service delivery is not measured but may be able to be in the future when new information systems become available.

Including a dissection of the reasons for applications being rejected could enhance further the usefulness of this indicator.<sup>22</sup>

### *Appeals*

Applicants for legal aid have access to an appeal mechanism if their applications are rejected. The appeals process is through legal aid review Committees of which there are four; three general committees and one family law committee. The Committees will review appeals and may allow legal aid or may vary any restrictions placed on grants.

The success rate of appeals provides an indication of the fairness and accuracy of LAC's application of its test criteria and guidelines. The results of appeals for 1997-98 are shown in Table 5.

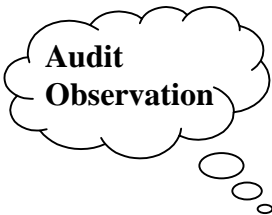
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<sup>22</sup> The South Australian Legal Services Commission for example provided reasons for rejecting applications in its 1997-98 Annual Report. It showed that although 27 percent of rejected applications were rejected on means or merit tests and a further 53 percent were rejected on Guidelines, 8 percent of rejected applicants met all criteria but were unable to be assisted because of insufficient resources.

**Table 5: Appeals by Program 1997-98**

	Appeals as a Percentage of Applications	Appeals as a Percentage of Refusals	Percentage of Appeals Allowed
Criminal Law	0.9	13.1	34.3
Family Law	5.2	19.7	10.8
General Law	3.5	26.7	11.3
Total – All Programs	1.7	17.1	20.5

Source: TAO analysis of data in the LAC *Annual Report 1997-98*



**Audit  
Observation**

The low appeal rates compared to applications received for legal aid might suggest that LAC is applying the guidelines and test criteria correctly. On average only 20 per cent of appeals are successful. The higher figure for criminal law might indicate an area worth management investigation.<sup>23</sup>

A further enhancement to the indicators that LAC might consider would be to measure the reason for appeals being allowed to determine whether there are areas with consistent systemic difficulties in applying the criteria.

LAC has not sought to measure the extent to which all disadvantaged persons eligible for legal aid actually apply. This would be worth further investigation.

Anecdotal evidence suggests that increasing court delays are caused, in part, by an increase in unrepresented litigants. If statistics on the number of unrepresented litigants eligible for legal aid could be developed, they would be a useful measure of the effectiveness of LAC in targeting the disadvantaged. To develop such an indicator, the co-operation of the court system would be required.

### **Access to the Legal System and Client Satisfaction**

Measuring client satisfaction and the effectiveness of LAC in promoting access to the legal system are difficult areas to develop relevant indicators.

<sup>23</sup> Interpretation of the number of appeals against the number of refusals is not clear from the information supplied by LAC. It might be that the applicant clearly is ineligible (for example, where earnings are far in excess of the income allowed under the means test). However, it could equally be correct that persons whose applications LAC reject actually are eligible for assistance but have decided not to pursue the matter further by appealing LAC's decision. This presents another aspect of potential unmet demand that LAC could measure.

### *LAC Customer Service Standards*

Customer Service Standards have been developed by LAC to help show the agency's commitment of service to the people of NSW and its responsibilities to clients.<sup>24</sup> The Standards include:

- treating everybody with courtesy, honesty and fairness
- keeping information about clients and their cases confidential
- providing clear and accurate advice and professional service
- responding to clients' different needs for legal help.

LAC has not developed specific indicators to measure its performance against most of these standards. Currently reporting is limited to listing the outputs that LAC provides (that is, the activities undertaken) to address these standards.

### *Practice Management Standards*

LAC has implemented internal Practice Management Standards with which all LAC lawyers must comply and against which regular file reviews are undertaken. Practice Management Standards in some areas also specify targets for client service. For example, one target set is that applications for legal aid be actioned within 40 days; performance against this target is reported by LAC.

Result 1996-97	Target 1997-98	Result 1997-98
76.1%	78%	75.2%

Source: LAC Annual Report 1998



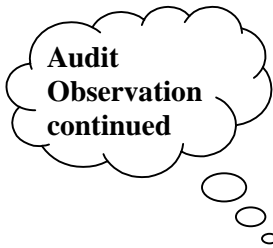
Currently the outcomes achieved (rather than the activities undertaken) against most Customer Service Standards and Practice Management Standards are not measured. There is scope for LAC to develop targets for, and expand the reporting of, achievement against both the Customer Standards and the Practice Management Standards.

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<sup>24</sup> Paraphrased by TAO from LAC *Annual Report* 1998, p10.

<sup>25</sup> Includes applications that were determined within 40 days or were actioned by a request for further information because insufficient details were provided to make a determination.





For example, LAC sets a target of 100 percent compliance with the Practice Management Standards. Achievement against this target could be reported as well as the number (ratio) of non-compliance incidents identified during file reviews. LAC could further develop aspects of the Practice Management Standards to allow better measurement of achievements.

Similarly, LAC might consider developing and reporting other measures of its client service standards. For example, in the area of the telephone legal information service LAC currently presents workload statistics: the number of calls received; a comparison to prior years and a dissection by legal program. This information shows how “busy” the telephone service has been but does not address the issue of the quality of the service provided.

In the private sector, indicators of quality for telephone service commonly include:

- number of calls answered compared to the number of calls received
- number of abandoned calls compared to the number of calls received
- average waiting time (including a comparison to previous year when data becomes available)
- the percentiles for call waiting times (for example, the percentage of calls answered within one minute, between one and five minutes and over five minutes)
- average length of time per call spent dealing with telephone clients.<sup>26</sup>

Performance targets could be set for each of these indicators and results monitored against targets. For example, LAC Practice Management Standards contain the following targets:

- all incoming calls should be answered promptly and within five rings
- all telephone messages should be returned within 24 hours.

Achievements against such standards are a good indication of the quality of client service and should be recorded and reported. Benchmarking to private sector best practice might also be possible.

<sup>26</sup> Already as part of the Commonwealth-State Agreement the Commonwealth has requested that State Legal Aid Commissions report on some of these indicators. For example, the Commonwealth has requested information on the call waiting times for telephone information services.

### *Complaints and Feedback System*

The level of client complaint is another relevant indicator of the level of client satisfaction with service. LAC has implemented a comprehensive mechanism for resolving and recording complaints and feedback from its clients. The complaint and feedback system contains procedures to monitor client satisfaction with service standards and to provide data to improve continuously LAC services.

LAC's complaint handling procedures recognise the importance of keeping the client informed on the progress of their complaint and set time limits for handling complaints:

- referral of complaint by front-line staff to supervisor or customer liaison officer within 24 hours
- written acknowledgment of receipt of the complaint sent to the client within seven days
- completion of investigation of complaint within three weeks
- response to the complainant on the results of the investigation within four weeks.

Time limits are calculated from the date of receipt of the complaint.



LAC is yet to commence externally reporting achievements from the complaint handling system although senior managers are monitoring the information. External reporting of the level of complaints received and performance against complaint handling time limits (related to best practice targets) is desirable.

Standards Australia has published an Australian Standard on complaints handling. The relevant Standard (A.S. 4269 – 1995) identifies the essential elements for an effective complaint handling system. These include:

- **commitment** to efficient and fair resolution of complaints
- **fairness** to both the complainant and the organisation
- **visibility** through the complaint handling process being well publicised
- **access** available to all and be easily understood and used
- **assistance** available for complainants
- **responsiveness** through complaints being dealt with quickly and courteously
- **remedies** being available through the complaint handling system.

Reporting of LAC's achievements against these Standards would be advantageous.

### *Qualifications of Staff*

LAC faces difficulties measuring client satisfaction. Private sector methods of gauging client satisfaction, such as sales information, profits and customer surveys, provide information of limited use for the LAC. (The next Chapter discusses some of the specific difficulties LAC faces in measuring client satisfaction.)

As a surrogate measure of the quality of its customer services LAC has developed and continues to improve its measures of the professionalism and competency of its staff. LAC reports on the number of legal staff who have specialist accreditation and the number of staff who are eligible for an unrestricted practising certificate.

These are input, not outcome measures. As mentioned earlier, whilst this information is of some interest, as a surrogate for outcome measures it is of limited value. The rationale behind these surrogate indicators is that LAC increases the likelihood that its clients' cases will be well managed through ensuring the quality of the staff and processes. Highly qualified staff with expertise in the relevant areas of the law are more likely to be able to manage their client's case efficiently and obtain the best result for the given circumstances.<sup>27</sup> Specialist accreditation indicators have the added advantage of being overseen by a body independent of the LAC, namely the Law Society of NSW.<sup>28</sup> However, such indicators have the disadvantage that they need not be relevant.

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<sup>27</sup> The Balanced Scorecard methodology (discussed briefly in the next section of this Chapter and more fully in Appendix 4) uses a similar rationale in developing lead indicators. A *lead* indicator attempts to provide an indicator of what needs to be set in place now to ensure future performance. (By contrast, more performance indicators are *lag* indicators; showing the results for previous periods.) In a legal aid context, the LAC has identified the desirability for its lawyers to be specialists in the areas of law most required by legally-assisted persons. Achievement of a target of x per cent of legal officers with specialist accreditation could form a lead indicator for a strategy to ensure *future* quality client service.

<sup>28</sup> For example, to be accredited in any speciality area law practitioners in NSW must:

- hold a current practising certificate
- have practised for five years on a full-time basis, or equivalent
- for the three years prior to application, demonstrate a substantial involvement in the area – not less than 25 per cent of normal full time practice.

In addition Accredited Specialists are required undertake continuing legal education to maintain quality and seek re-accreditation each year.

### Use of Alternative Dispute Resolution

LAC's mission statement specifically mentions the agency will encourage the use of alternative dispute resolution (ADR). This is reinforced by LAC's second corporate objective in its 1995-1998 Corporate Plan.<sup>29</sup>

Initiatives to promote ADR have occurred in many jurisdictions to provide a mechanism for persons in dispute to seek remedies without the cost and time involved in litigation.<sup>30</sup> ADR can be a more efficient process than traditional litigation. It generally brings the parties together with a mediator to discuss the issues in dispute and to seek common acceptable solutions to these issues.

LAC provides a measure of its promotion of ADR in its Annual Report. Table 7 shows the results reported for 1997-98.

	1995-96	1996-97	1997-98
<b>Family Law Conferencing</b>			
Meetings held	121	152	186
Agreement Rate (%)	69	61	51
<b>Family Law Mediation</b>			
Meetings held	163	193	159
Agreement Rate (%)	53	66	48
<b>Civil Law Pro Bono Mediation</b>			
Meetings held	16	16	10
Agreement Rate (%)	56	50	80

Source: LAC Annual Report 1998. Note: 1997-98 figures refer to full resolution only.

In Table 7 "meetings held" is an input measure. The agreement rate represents an outcome measure (however a better outcome measure is suggested in the following audit observation

<sup>29</sup> To encourage the use of litigation as a last resort for dispute resolution by providing high quality specialist legal education and by promoting alternative dispute resolution.

<sup>30</sup> For example, it is NSW Government policy (Premier's Memorandum 89-42 and 94-25) that agencies use ADR techniques wherever possible. To assist the implementation of this policy, guidelines provide a framework, which ensures that there is no conflict between the principles of confidentiality and public accountability when using mediation. The guidelines suggest that all contracts entered should incorporate a clause allowing for mediation between parties where negotiation over disputes fail. See *Public Sector Mediation Guidelines a framework for using mediation in the NSW public sector*, August 1996.



Given the prominence of ADR in LAC corporate objectives (and its potential to effect cost saving by avoiding litigation) further development of indicators in this area would be of assistance.

For example, it would be relevant to measure those cases that do actually use ADR as a proportion of cases, which potentially could use ADR.<sup>31</sup> The agreement rate from using ADR then provides a more meaningful measure of outcomes.

Similarly, an indication of the estimated savings derived from using ADR in lieu of litigation could be advantageous (cost savings can result for LAC and also savings to the courts system if litigation is avoided).

### 4.3.2 Measures of Efficiency

Efficiency indicators will provide information about how well LAC is using its resources in providing its services.

#### Gross Unit Cost Index

The main indicator of efficiency that LAC has developed is the *Gross Unit Cost Index*. LAC developed this index to compare over time the relative unit costs of its services. The index is similar to the Consumer Price Index methodology used by the Australian Bureau of Statistics to measure changes in Australian price levels. As such, the gross unit cost index is not a measure of actual unit cost, but represents a notional index figure measured against a base year. LAC takes into account cumulative inflation rates to assist in comparability.

LAC has produced figures for the index back to 1993-94 and provides a good comparison of relative costs of services (and efficiencies) over the period. The results to 1997-98 are shown in Table 8.

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<sup>31</sup> ADR cannot be applied to all situations and many cases will be precluded from using ADR. For example, ADR is not an option in criminal matters. Similarly, whilst ADR is encouraged in Family Law certain specific types of proceedings preclude the use of ADR. These include cases where molestation or domestic violence is alleged by one or both parties, and where it is considered there is a clear imbalance in the bargaining position between the parties – for ADR to work parties should be on an equal standing in respect to discussing their position.

	Criminal Law	Family Law	General Law	Total – All Programs
1993-94	100.0	100.0	100.0	100.0
1994-95	105.2	87.8	103.8	105.4
1995-96	87.1	94.6	71.7	89.1
1996-97	85.4	90.3	60.8	86.0
1997-98	87.0	100.0	60.8	89.9

Source: LAC *Annual Report* 1998. (figures are unaudited)  
 Note: The base year (1993-94) is taken as an index figure of 100.

The information reported by LAC shows a reduction in the unit cost of services compared to the base year indicating an increase in efficiency over the period (meaning that LAC is able to provide the same service at lower cost).

However, the information provided is of limited use because no explanations are given to the large fluctuations in the index across years. It is doubtful that efficiency gains of 30 per cent would occur in one year. Similarly, the circumstances where large increases in the index occur, for example the ten per cent increase in the Family Law index between 1996-97 and 1997-98, need to be explained.

### **Averages of Expenditures and Delivered Services**

The most common measures of efficiency are those indicators which directly compare agency inputs to outputs. The indicators of average client services provided per staff member and the average expenditure per client service are such measures developed and reported by LAC. The targets set and the recent results reported by LAC are shown in Table 9.

	Result 1996-97	Target 1997-98	Result 1997-98	Target 1998-99
Average client services provided per staff member	355:1	>355:1	352:1	350:1
Average expenditure per client service	\$384	\$385	\$385	\$385

Source: LAC *Annual Report* 1998. (Figures are unaudited. See next page for comments)

The results reported in Table 9 illustrate where statistical indicators require explanation to aid interpretation. On the one hand, falling “average client services provided per staff member” may indicate that staff productivity is declining (ie. Less work is being done for the same number of staff).

On the other hand, “average expenditure per client service” has remained static. Although staff productivity is lower, there has been no increase in costs-per-service. This may indicate that cost efficiency has improved. How this has been achieved is not explained.

Without adequate explanation of movements in statistical indicators it is difficult meaningfully to gauge performance.

In the legal aid context, improved efficiency indicators are being developed as part of the Commonwealth-State Agreement. The Commonwealth has requested State Legal Aid Commissions to report on eight indicators of output and intends that these indicators will assist future comparisons between State Commissions.

One of the indicators suggested by the Commonwealth is the average and median costs of cases referred to private practitioners finalised during the reporting period. This indicator raises two issues that are relevant when attempting to measure the efficiency of providing legal aid:

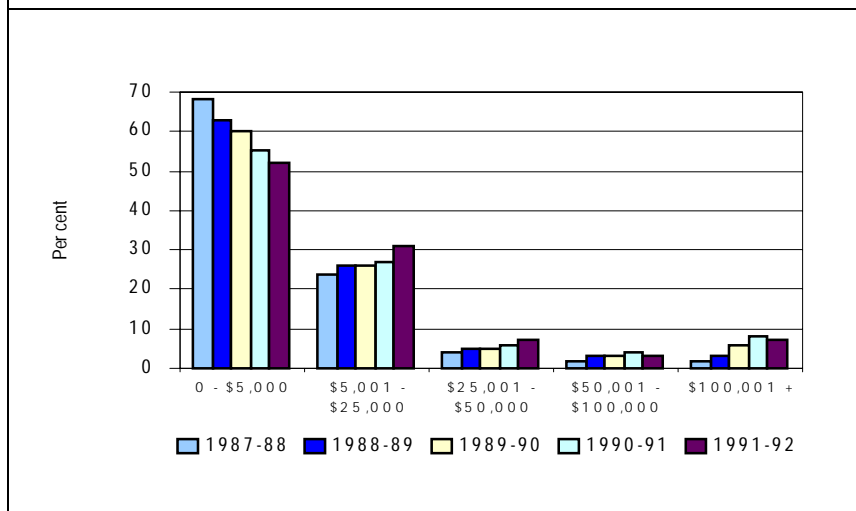
- high cost cases
- cases assigned by LAC to private practitioners.

#### *High Cost Cases*

Anecdotal evidence from NSW and reviews undertaken in other jurisdictions indicate that 80 percent of cases consume only 20 percent of resources; the remaining resources are expended on a small proportion of high cost cases. This distribution distorts average cost figures. A further distortion occurs because not all cases commenced in a reporting period will be finalised. This is especially so in respect to high cost cases that may take years to finalise.

The Commonwealth indicators partly address this issue by requiring the median cost of the cases measured. A further enhancement would be to provide the cost of completed cases for the reporting period dissected by several cost ranges. A Victorian example of such a report appears at Figure 9.

**Figure 9: Reporting Cases by Cost Level**



Source: *Legal Aid Commission of Victoria – Special Report No.28*, Victorian Auditor-General’s Office, November 1993, p57.

*Assigned Cases*

A second issue arises with the need to develop indicators for the cases assigned by LAC to private practitioners. At present LAC provides some information on the number of cases assigned. However, at present a breakdown and comparison of costs between in-house and assigned work is not reported.

	Inhouse		Assigned	
	Cases	Percent	Cases	Percent
Criminal Law	45911	50.6	44818	49.4
Family Law	3210	27.6	8430	72.4
General Law	7662	64.3	4261	35.7
Total – All Programs	56783	49.7	57509	50.3

Source: LAC Annual Report 1998





LAC might consider using some of the various formal methodologies available to further develop its performance measurement process. Some of these methodologies were mentioned in Chapter 2 (Appendix 4 provides further information on key performance indicator methodologies).

For example, a methodology currently popular in the private sector (and one which is gaining acceptance in the public sector) is the *balanced scorecard*. Balanced scorecard aims to identify and measure those activities most crucial to an organisation's survival and growth.

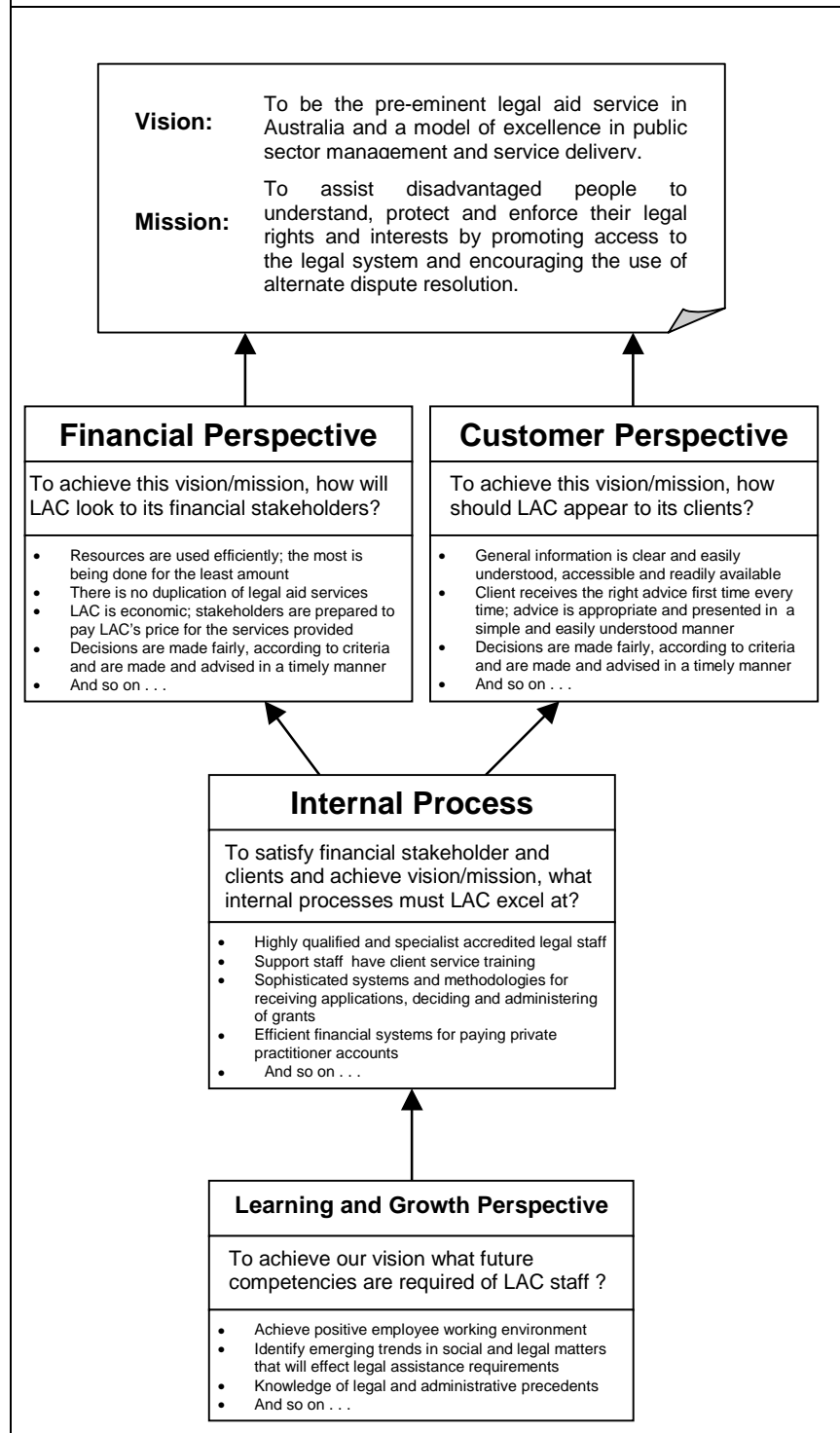
The following figures present examples of how LAC could apply the balanced scorecard methodology to suit its requirements.

The scorecard methodology can be applied at different reporting levels in an organisation. It can of course be used to produce a whole-of-agency scorecard. In addition, scorecards can be developed at the branch/divisional level, and at the individual program/unit/activity level.

Figure 10 provides an example of a corporate level balanced scorecard. Figure 11 provides examples (again using the balanced scorecard methodology) of an outline of measures and targets against a hypothetical strategy for delivering the LAC's legal advice service.

These figures provide examples only; other variations of legal aid balanced scorecards are possible.

**Figure 10: Hypothetical Example of a Possible LAC Corporate Balanced Scorecard**



**Figure 11: Hypothetical Example of a Possible LAC Function Balanced Scorecard**

<b>Financial Perspective</b>			
<b>Goal</b>	<b>Strategies</b>	<b>Measures</b>	<b>Targets</b>
Resources will be used efficiently and effectively	LAC monitors the costs of providing its services against best practice	Cost per advice service provided; also disaggregated by law type	\$XX per telephone advice \$YY per face-to-face service
		Total cost of providing advising service	\$XX (or per cent) of total LAC expenditure taken by advising services
		Average and median cost of inhouse advising services and outside contracted services (if used)	LAC costs comparable to contracted service
		Benchmarking of costs for similar advising services in the private sector	LAC advising services to be within +/- XXX per cent of the median for private sector best practice

<b>Customer Perspective</b>			
<b>Goal</b>	<b>Strategies</b>	<b>Measures</b>	<b>Targets</b>
Client wants accurate, relevant and timely advice	Advice service is monitored to ensure quality of service	No (per cent) of matters resolved satisfactorily (for the client) the first call or visit	By ####, XXX per cent of matters will be resolved satisfactorily with one call or visit
		No (per cent) of matters where the client has to repeat their call or visit	Less than XXX per cent contacts will require repeat calls or visits
		No (per cent) of complaints received about advising service	By ####, will achieve a less than XXX per cent complaint rate
Services are provided in a timely manner; appointments are arranged within a reasonable time span	Service demand is monitored to ensure staff are available	Average and median waiting times for first appointments	Average waiting time for an advice appointment will be XXX days; ZZZ per cent will be given in less than this
		Number of abandoned calls compared to the number of calls received	By ####, abandoned calls will be < XXX per cent of all call to the advice number
		The percentiles for call waiting times	XXX per cent calls answered within one minute  YYY per cent answered between one and five minutes  ZZZ per cent answered over five minutes

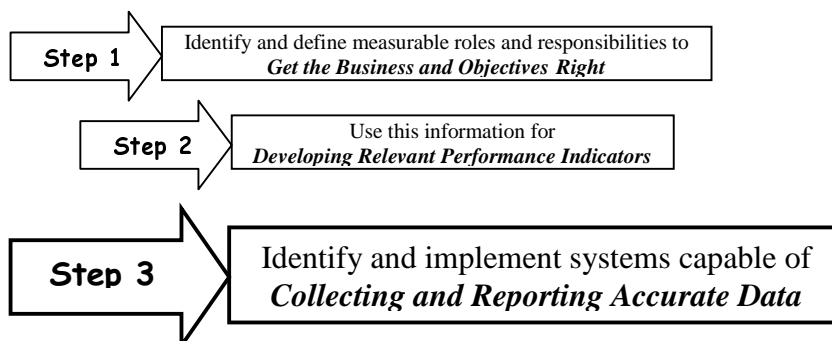
<b>Internal Process Perspective</b>			
<b>Goal</b>	<b>Strategies</b>	<b>Measures</b>	<b>Targets</b>
Highly qualified legal staff	Encourage Legal Officers to undertake professional development	Proportion (numbers) of legal officers with unrestricted practice certificates	By ####, XX per cent of legal officers will have unrestricted practice certificates
		Proportion (numbers) of legal officers with accredited specialist status	By ####, at least XX per cent of all frontline staff meet competency standard
Legal precedent and legislation information available	PC-based database available to all advice staff	System availability (downtime) per working period	Precedent and legislation database available to staff >XX percent of required time.
		Lag time to incorporate new legislation and precedents into database	All new legislation and precedents entered on system within XX hours/days of receipt.
		Proportion of advice staff adequately trained to use database systems	By ####, all existing advice staff trained in the use of system  All new advice staff trained in the use of the system within X days of commencing duties in an advice area.

<b>Learning and Growth Perspective</b>			
<b>Goal</b>	<b>Strategies</b>	<b>Measures</b>	<b>Targets</b>
Safe and healthy workplace for staff and clients	All staff trained to deal with aggressive clients	Proportion of training budget spent on client handling training	By ####, X per cent of annual training budget spent on client contact training
		Proportion of staff having undertaken training meet competency standards	By ####, at least X per cent of all frontline staff meet competency standard
		Number of compensation claims	By #### <X claims per 1,000 client contact hours
		Cost of compensation claims per 1,000 client contact hours	By #### < \$X per 1,000 client contact hours
		Number of serious incidents reported per 1,000 client contact hours	By ####, X incidents per 1000 client contact hours
		Number of OHS infringement notices relating to incidents issued	By ####, zero infringement notices issued per year
		Staff satisfaction surveys results	By ####, >XX per cent of staff rank the LAC workplace very good or higher

## **5 Step 3: Collecting and Reporting Accurate Data**

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## 5.1 Overview



Once agencies have identified what performance indicators will be appropriate and relevant for measuring their activities and outcomes, they need to have systems, procedures or sources for collecting, recording, analysing and producing the data necessary for those indicators.

Performance data needs to possess certain characteristics if it is to produce appropriate and relevant performance indicators. This Chapter discusses those characteristics and presents LAC's experience in collecting performance-related data.

## 5.2 Desirable Characteristics of Data

To present a reliable picture of agency achievements performance indicators should be based on data that is:

**Accurate** – the need for accurate data is self-evident. Systems and procedures are needed to ensure the accuracy and completeness of the information being recorded. This may be through a combination of system checks and controls of input, education and training to ensure staff are aware of the correct information to collect, and post data-entry verification by quality assurance methods or through the Internal Audit function.

**Unbiased** – the information must be impartially collected, analysed and reported. Data might produce unfavourable performance indicators but the selective reporting (or non-reporting) of such information does not present a true picture of the agency's achievements.



**Verifiable** – performance data must be capable of producing the same or similar results and conclusions to those reported by the agency if used by an independent and competent person. The indicators presented and the conclusions drawn must be capable of being checked against the data from whence they were developed.

The data collected by agencies must meet the above characteristics and be based on the needs of the performance indicators previously identified as appropriate and relevant. The systems, procedures or external data sources necessary to produce the required data then need to be developed or existing arrangements modified to suit these needs.

### 5.3 Internal Information Sources

Much of the required performance-related data will be produced internally by the agency's own staff, systems and procedures. Agencies' information systems provide data upon which management decisions are made. This can form the basis of external reporting.<sup>32</sup>

Traditionally, information systems have been based around major functions such as human resource management (HRM) /personnel, financial and operational areas. Ideally, agency systems should be capable of producing performance information (for internal management purposes and for public reporting) from the normal day-to-day operation of those systems. For example, a personnel system could be capable of producing payroll information, produce statistics on HRM issues such as absentee rates, accrued long service and recreational leave, incidents and costs incurred with workers' compensation claims, and so forth.

Similarly, operational systems may record client information, appointment details, billing and charging information, and case management procedures. Such systems might be capable, for example, of supplying information on client's usage of agency services, elapsed time to completion of tasks or services, costs incurred, client profiles and other demographic data.

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<sup>32</sup> In the public sector, internal systems are able usually to provide information to develop *efficiency* measures. Information on agency *effectiveness* (measuring outcomes) is often outside the agency and requires other methods to collect the necessary data. This contrasts with the private sector where an organisation's systems capture surrogate data on outcomes through measuring customer numbers, trading volumes and profit levels. The next section of this chapter discusses external sources of information used by government agencies.

In practice, however, systems might not have been designed to produce the information in the level of detail and sophistication that is now required of them. In these instances the performance indicators presented by organisations can often be dictated by their data producing capacity. In such cases it is the system that dictates what is reported whether or not the resulting information is appropriate and relevant to the purpose. This is an undesirable situation, which affected agencies should work towards rectifying.

Even where agencies have systems capable of producing the data needed to produce the performance indicators necessary, the process might not be efficient. Different systems such as the management information, operational, financial and HRM systems develop to address the needs of their particular functional areas.

Often it is difficult (and sometimes impossible) to transfer data amongst the different systems. Agency staff are forced to transfer data into spreadsheet or similar data manipulation programs before performance information can be produced. System limitations therefore can impose a significant cost on providing information.

Worldwide trends towards integrated organisation-wide information systems (such as SAP R/3, Baan, Peoplesoft amongst others) are moving to resolve such problems and make efficient and effective use of all agency information. However, such systems tend to be used by large organisations, and many public sector agencies will still need to find other solutions to this issue.

Where operational and information systems are inadequate agencies often resort to the manual collection of performance information. In such instances, efforts must be made to ensure that all staff involved are aware of what exactly being measured and how that measurement is to be undertaken. Although this is a basic tenet it is one often overlooked. This can have an adverse effect on information quality.

For example, when measuring an agency's response rate for client correspondence, a decision has to be made when the process commences and when it is completed. For the former, does the time elapsed commence when the mailroom date-stamps receipt of the client's letter, when it is sent to the relevant section or when it is "logged" on the correspondence tracking system?

Similar variables exist for measuring task completion and results can be seriously compromised if staff use different start and finish points. The risk of this occurring increases in agencies that are geographically dispersed or where tasks are undertaken in multiple workgroups. Methods available to overcome such difficulties include:

- producing *data dictionaries* to explain what each measure is, define measurement methodologies and explain the type of information that is required. A data dictionary provides staff with a reference point.
- pre-printed checklists, forms and tally sheets. Pre-printed forms ensure consistency across an agency with multiple data collection points. Effectively designed forms can ease the collection process by requesting simple data. For example, commencing and completion times for a client interview might be keyed to a system that calculates the actual elapsed time. This would reduce the likelihood of calculation errors.
- central processing of data. Central processing of all manually collected data allows better control over, and analysis of, data. Quality control procedures can be implemented to check input documents consistently and to isolate those requiring further examination. Efficiencies of input and the development of expertise also can result from central data collection and entry.

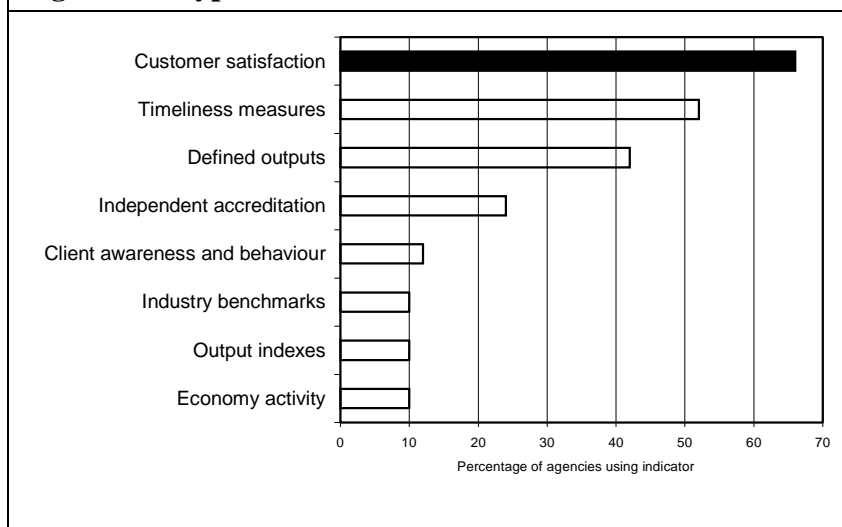
## **5.4 External information sources**

To present a complete picture of agency performance often it will be necessary to use data sourced from outside the agency's own systems. Examples of external data sources are the client surveys and the data produced by the Australian Bureau of Statistics or other similar organisations.

### **5.4.1 Client Surveys**

The most common source of external data used by agencies is information obtained from client surveys. With the government placing an even greater emphasis on client service, customer charters and responsiveness to client needs agencies are increasingly using client surveys as measures of customer satisfaction and indicators of agency effectiveness. The Office of the Auditor-General of Western Australia reported that over 60 percent of agencies in that State used customer satisfaction information as the main indicator of effectiveness.

**Figure 12: Types of Effectiveness Indicators**



Source: *Listen and Learn – Using customer surveys to report performance in the Western Australian public sector*, Auditor General of Western Australia Report No 5 June 1998, p7.

Although client surveys and sampling techniques are used extensively in both the public and private sectors, survey and sampling methods require a considerable amount of consideration, development and application if they are to produce reliable data.

Many agencies embark on surveys of clients without identifying adequately their client base and the specific client groupings or stratification required to produce meaningful results. For example, in welfare-services it is necessary to stratify populations by socio-economic, ethnic or gender basis to help avoid population or sampling bias.

Another form of bias that often affects survey results is insufficient client response rates. Insufficient responses lead to misleading results and agencies need to be rigorous in their development and in the use of statistically valid methods. The following table provides examples of the response rates required for a given survey population at different levels of confidence.

Sample size	Response required to achieve a confidence factor of	
	+/- 3%	+/- 5%
50	48	45
100	92	80
250	203	152
500	341	217
1000	516	278
2500	748	333
5000	880	357
10000	964	370

Source: Adapted by TAO from *Listen and Learn - Using customer surveys to report performance in the Western Australian public sector*, Auditor General of Western Australia Report No 5 June 1998, p31.

Often agencies are unaware of the response rate they require for their given sampling population. Western Australian Audit Office findings noted that there is little further analysis being undertaken by agencies to identify the risks of sample bias created by poor response rates.

Agencies also have to be clear about what information they are attempting to obtain from clients and structure their information requests accordingly. Significant consideration must go into the preparation of survey questions, the format in which the questions are presented, the answering options allowed to the respondent and other factors that can easily affect results.

For example, there needs to be balance in the amount of detail expected from respondents. Attempts at being too precise and exacting, leading to a large number of questions, alienate respondents and lead to poor response rates. Alternatively, questions that are too broad may produce incomplete and misleading answers.

When considering the use of surveys, agencies need to be mindful of the importance of these factors and undertake adequate groundwork before using such methods to obtain performance information.

## **5.4.2 Data from other External Sources**

Care also needs to be taken to ensure that other sources of data obtained from external organisations relate properly to the indicator, and are fit for the reporting purpose for which they are intended.

Often data series (for example, census data) are collected for a particular and specific purpose.<sup>33</sup> Using such data in another context might distort the results and provide a misleading picture of actual performance.

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<sup>33</sup> In collecting data, assumptions are made, populations are defined and data collection and analysis techniques are used that may relate specifically to the particular purpose for which the data was originally collected, requiring care or perhaps adjustment in making use of it for other purposes.



## 5.5 LAC Case Study

### 5.5.1 Performance Information Systems

LAC has identified that its current systems do not meet its information needs and is in the process of implementing replacement systems. At present LAC's non-financial performance information is collected in three databases (including the CLASS system – a legal aid specific system developed in the 1980s) which are incapable of communicating with each other. LAC downloads and manipulates data in PC spreadsheets to produce management reports and performance information. This process is resource intensive.

LAC is also aware that its data verification procedures could be improved. Presently there are no quality assurance checks on the data entered into and produced from LAC systems.<sup>34</sup>

LAC is currently introducing the new software (*LA Office*) to replace its existing systems. *LA Office* was developed by the Queensland Legal Aid Office and represents a significant improvement on existing LAC systems.<sup>35</sup> LAC expects that *LA Office* will address the current system deficiencies by being able to check data during the input stage and by allowing users to customise information reports from the system.

LAC staff are undertaking training on *LA Office* in order to commence using the system from 1 July 1999.

### 5.5.2 Costing of Activities

LAC is in the process of implementing an activity-based costing system, which will allow it to measure and monitor the cost of its services more accurately.

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<sup>34</sup> LAC contracts its internal audit function from an external supplier. This supplier is currently undertaking a risk analysis of LAC from which a proposed program of internal audits will be developed. However, the program emphasis will be on internal controls and compliance issues not data verification.

<sup>35</sup> One of the requirements contained in the new legal aid funding agreement between the Commonwealth and the States is that each State and Territory Legal Aid Office will adopt *LA Office* as its legal aid information system. The Commonwealth's objective is to improve the quality of performance information on the legal aid functions and enable meaningful comparisons of the function across jurisdictions.



Accurate and complete cost attribution is necessary if a true indication of the cost of LACs services is to be presented. LAC should ensure that the activity-based cost recording is extended to all areas as soon as possible.

### 5.5.3 Client Satisfaction Data

LAC has faced difficulties in developing measures of effectiveness and client satisfaction. Some use has been made of various types of surveys. However, considerable discussion has centred on differentiating the client's perception of the legal service received from the result of their case. In addition to presenting a philosophical question about defining effectiveness in a legal aid context<sup>36</sup>, this issue presents data collection difficulties. For example, studies undertaken on this aspect in Queensland reported that

. . . former clients who had been imprisoned were, as one would predict, less satisfied than their liberated counterparts.<sup>37</sup>

Other difficulties noted in the Queensland study were that the legal aid client population is transient and poor response rates often resulted from the inability to locate clients. Findings must thus be interpreted with caution.<sup>38</sup>

Client comments provided in the survey also proved to be of limited use. Clients who gave reasons for their feelings that they did not receive a fair trial tended to attribute responsibility to sources beyond their solicitors. Negative comments were extremely varied, often not related to their legal defence.<sup>39</sup>



Although it is necessary to acknowledge the difficulties of using client surveys in the legal aid context, such difficulties do not obviate the need for the LAC to obtain client views and to address the measurement of outcomes.

Comments provided by LAC staff suggest that further enhancements of LAC's surveying methods would improve the rigour and statistical validity of the information obtained.

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<sup>36</sup> Arguments relating to measuring the quality of legal aid services (inputs) versus case results (outcomes) were canvassed at section 3.3.3.

<sup>37</sup> Penzler, Williams & Hayes *Queensland Legal Aid Office Client Survey* AJPA p 48.

<sup>38</sup> As requirements of randomisation and normality were not met, refer *ibid.*

<sup>39</sup> *Ibid.*



## Appendices

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## Appendix 1

### Audit Objectives, Focus and Criteria

#### *Audit Objectives*

The objectives of the audit were:

- to present a Report, which could possibly also serve as a guide, outlining the process for developing KPIs and highlighting the opportunities for improving performance monitoring and reporting in the State public sector.
- to develop a TAO methodology for auditing performance indicators
- to assess whether LAC systems and procedures produce KPIs that are appropriate, relevance, comprehensive and accurate.

#### *Audit Scope and Focus*

The audit used the LAC as a case study to illustrate a range of aspects of KPI development and implementation. In examining practices at LAC, the audit scope was to review the state of LAC's current and planned KPIs to determine whether these were:

- appropriate and relevant to the agency's objectives as defined by its enabling legislation
- comprehensive and measure all major activities undertaken by the LAC
- accurate and present fairly the performance of the agency.

The focus of the LAC case study was on reviewing LAC's published KPIs also on the use of performance measures internally by senior and line management. The aim was to determine the adequacy of the performance framework that the LAC has in place and whether performance monitoring is an integral part of the agency's management activities.

#### *Audit Criteria*

The following criteria was applied to allow an opinion on LAC's KPIs to be determined:

- The agency will have a clear and accurate understanding of what Parliament requires it to achieve (*the agency's objectives will reflect accurately its primary legislation*)

- The agency will identify KPIs that are appropriate and relevant to its purpose (*KPIs will aim to report on achievement of Parliament's requirements*)
- KPIs will be high level indicators relating to core functions (*the agency will have identified its core functions and developed appropriate and relevant indicators for each*)
- KPIs concentrate on reporting outcomes and efficiency measures (*in determining measures of outcomes (effectiveness indicators) the agency will identify the areas where it has a significant degree of control over eventual results. In determining measures of outputs (efficiency indicators) the agency will be aware of the processes and procedures used in undertaking its functions*)
- Systems and procedures will be capable of providing accurate, relevant, comprehensive and timely data for preparing the agency's KPIs.

## **Appendix 2**

### **Means, Merit and Jurisdiction Tests**

*This section has been summarised from the LAC Annual Report 1997-98 and the LAC Internet home page.*

#### **Means Test**

LAC applies different means tests depending on the type of matter for which legal aid is sought.

The means tests are all income and assets tests. Eligibility is determined by assessing the net assessable income (after allowable deductions) and the assets of the applicant and financially associated persons.

The means tests apply to both State and Commonwealth matters.

The means test does NOT apply to the following:

- Legal advice
- Family Law duty matters where the applicant is in custody
- Children in the Children's Court and appeals to the District Court in care matters
- Children in the Community Services Appeals Tribunal and appeals to the Supreme Court from the Tribunal
- Children where an order for separate representation is made by the Family Court
- First appearance bail applications in the Local Court
- Most mental health matters
- Veterans' Affairs matters to ex-service personnel and their dependents (except for war service pension claims)
- Disabled persons before the Guardianship Tribunal and in Supreme Court appeals.

All other matters are means tested.

#### *Contributions*

A person receiving a grant of legal aid is usually required to pay an initial contribution at the beginning of the case based on their income and assets. If the contribution is greater than the estimated cost of the proceedings the person is ineligible for aid.

The initial contribution does not apply to pleas of not guilty in Local Court criminal matters (where a separate contribution of \$75 is imposed), most mental health matters or some other matters.

If the person recovers a sum of money or other asset, or if there is a substantial improvement in their financial situation, then they are also usually required to make a contribution at the end of the case. The final contribution is usually the full cost of the grant of legal aid.

### **Merit Tests**

There are two merit tests: one for State law matters and another for Commonwealth law matters.

#### *Merit Test A – State matters*

The Commission applies Merit Test A in most state non-criminal matters and in state criminal appeals. For further details see policies relating to specific areas of law.

Merit Test A addresses whether it is reasonable in all the circumstances to grant legal aid. Matters which the Commission takes into account include, but are not limited to:

- the nature and extent of any benefit that may accrue to the applicant by providing legal aid or of any detriment that the applicant may suffer if legal aid is refused, and
- whether the applicant has reasonable prospects of success in the proceedings.

#### *Merit Test B – Commonwealth matters*

Merit Test B is to be applied to all initial applications, extensions and appeals in Commonwealth non-criminal matters, except where otherwise stated. Merit Test B has three facets:

##### **1. Legal and factual merits – the “reasonable prospects of success” test**

Where it appears on the information, evidence and material provided by the applicant that the proposed actions, applications, defences or responses for which legal aid funding is sought, have reasonable prospects of success, then legal aid may be granted.

To satisfy this test, the proposed proceedings for which legal aid funding is sought must be more likely to succeed than not.

## **2. The “ordinarily prudent self-funding litigant” test**

Only where it is considered that the “ordinarily prudent self-funding litigant” would risk his or her funds in proceedings, may a grant of assistance be made.

The approach to litigation of an “ordinarily prudent self-funding litigant”, one without “deep pockets”, would be to seek to resolve the matter within a specified limited dollar allocation.

## **3. The “appropriateness of spending limited public legal aid funds” test**

Grants of legal aid may be made only when the costs involved in providing legal aid are warranted by the likely benefit to the applicant, or in some circumstances, the community.

The Commission needs to be satisfied that the matter for which legal aid is sought is an appropriate expenditure of public legal aid funds.

## **Jurisdiction Test**

Areas of law where legal aid is available as at 1 July 1998:

- Family Law

*State Law* – Adoption and De facto Relationships Act 1984 matters.

*Commonwealth Law* – Areas include separate representation of children, parenting plans and orders, child support, spousal maintenance, some property matters, injunctions concerning family violence and certain enforcement proceedings.

- Children’s Matters

*State and Commonwealth law* – In the Children’s Court for children in criminal and care matters; parents, guardians and others in care matters; Committal proceedings in the District and Supreme Courts for sentence matters and trials; appeals; and Community Services Appeals Tribunal proceedings.

- Child Support Matters

*Commonwealth Law* – Representation and assistance for Child Support (Assessment) Act 1989 proceedings.

- Civil Law

*State Law* – Areas include anti-discrimination, certain consumer protection matters, cases where there is a likelihood that the person will lose his/her home or involving questions of civil liberties, such as false imprisonment or malicious prosecution, public interest environment matters.

Applicants falling within the definition of special disadvantage may be granted assistance in a wider range of matters, including personal injury, professional negligence and employment matters. Applicants are at special disadvantage when “proceedings are taken by or for the benefit of a child or a person having substantial difficulty in dealing with the legal system by reason of a substantial psychiatric condition, developmental disability, intellectual impairment or a physical disability”.

*Commonwealth Law* – Matters arising under Commonwealth Statutes relating to decisions/actions by Commonwealth authorities which have a real prospect of affecting a person’s occupation; discrimination and consumer protection; common law or equitable claims against the Commonwealth in limited circumstances.

- Mental Health Matters

*State Law* – Magistrates inquiries under the Mental Health Act 1900; most proceedings before the Mental Health Review Tribunal; representation of forensic patients; Guardianship Act 1987 matters; and Protected Estates Act 1983 matters.

- Administrative Law

*Commonwealth Law* – Decisions about Commonwealth employee compensation or Commonwealth pensions, benefits or allowances; decisions/actions by the Commonwealth which have a real prospect of affecting a person’s occupation, migration matters.

- Veterans’ Matters

*Commonwealth Law* – War caused disability matters under the Veterans’ Entitlements Act 1986 in the Administrative Appeals Tribunal.

- Criminal Law

*State Law* – In the Local Court for most criminal matters commenced by police charge, except for drink driving and related offences unless there is a real possibility of gaol or exceptional circumstances exist; domestic violence proceedings for complainants, and, in some limited circumstances, defendants; extradition proceedings in some cases.

In the District, Supreme and High Courts assistance may be available for indictable matters or appeals.

*Commonwealth Law* – Defended charges arising under Commonwealth statute (excluding the Proceeds of Crime Act 1987) in certain circumstances; and pleas of guilty in limited circumstances.

- Prisoners' Matters

*State Law and Commonwealth Law* – Areas of assistance include visiting justice proceedings; Parole Board review hearings; life resentencing applications; review of segregation directions.



## Appendix 3

### Public Bodies Review Committee Checklists

#### Checklist on what performance is reported

What has been reported	Desirable
1. Goals/aims/objectives are reported for: 1.1 Corporate – for organisation as a whole 1.2 Programs/divisions	<b>YES</b> <b>YES</b>
2. This annual report contains objectives useful to the reporting of performance.	<b>YES</b>
3. This annual report does have a wealth of performance information	<b>YES</b>
4. The performance reported is for: 4.1 Corporate/whole organisation goals, etc. 4.2 Programs/divisions, etc.	<b>YES</b> <b>YES</b>
5. The performance reported is about: 5.1 Activities, ie how busy this organisation has been 5.2 Outcomes, ie what has been achieved	<b>NO</b> <b>YES</b>
6. The results/achievements/ outcomes reported are able to be directly influenced by this organisation.	<b>YES</b>
7. The performance reported is relative to: 7.1 Internal targets/standards/levels 7.2 External benchmarks/standards/ levels	<b>YES</b> <b>YES</b>
8. Client response is part of the performance information reported	<b>YES</b>

### Checklist on Financial Performance Reported

	Desirable
1. The Audit Report is: 1.1 Unqualified 1.2 Qualified	<b>YES</b> <b>NO</b>
2. Audit qualification(s) are addressed effectively in this annual report by senior management.	<b>YES</b>
3. A Financial Summary: 3.1 Is presented in the first few pages 3.2 Is usefully explained	<b>YES</b> <b>YES</b>
4. Key Financial Ratios: 4.1 Are presented 4.2 Are usefully explained	<b>YES</b> <b>YES</b>
5. Management Decision and Analysis (MDA) explains and expands on the (minimum) statutory financial disclosure: 5.1 Is prominent 5.2 Assists understanding of financial performance/outcomes	<b>YES</b> <b>YES</b>

### Checklist on Presentation of Performance

How Performance has been Reported	Desirable
1. The performance information reported is: 1.1 Quantitative 1.2 Qualitative	<b>YES</b> <b>YES</b>
2. With words that are: 2.1 General, and bare statements of fact 2.2 Descriptive, explanatory, illustrative	<b>NO</b> <b>YES</b>
3. With graphics that are: 3.1 Difficult to understand 3.2 Easily understood and effective	<b>NO</b> <b>YES</b>
4. With other visuals (eg photographs and captions) that: 4.1 Fail to convey the achievement/outcome 4.2 Are easily understood, ie effective, enhance the message.	<b>NO</b> <b>YES</b>

## Appendix 4

### Some Performance Measurement Methodologies

#### 1. Program Logic

Program logic is a theory about the causal linkages among the various components of a program: its resources and activities, its outputs, its short-term impacts and long-term outcomes. Program logic has been promoted at various times since its development in the Program Evaluation Unit of the NSW Public Service Board in the 1970s.

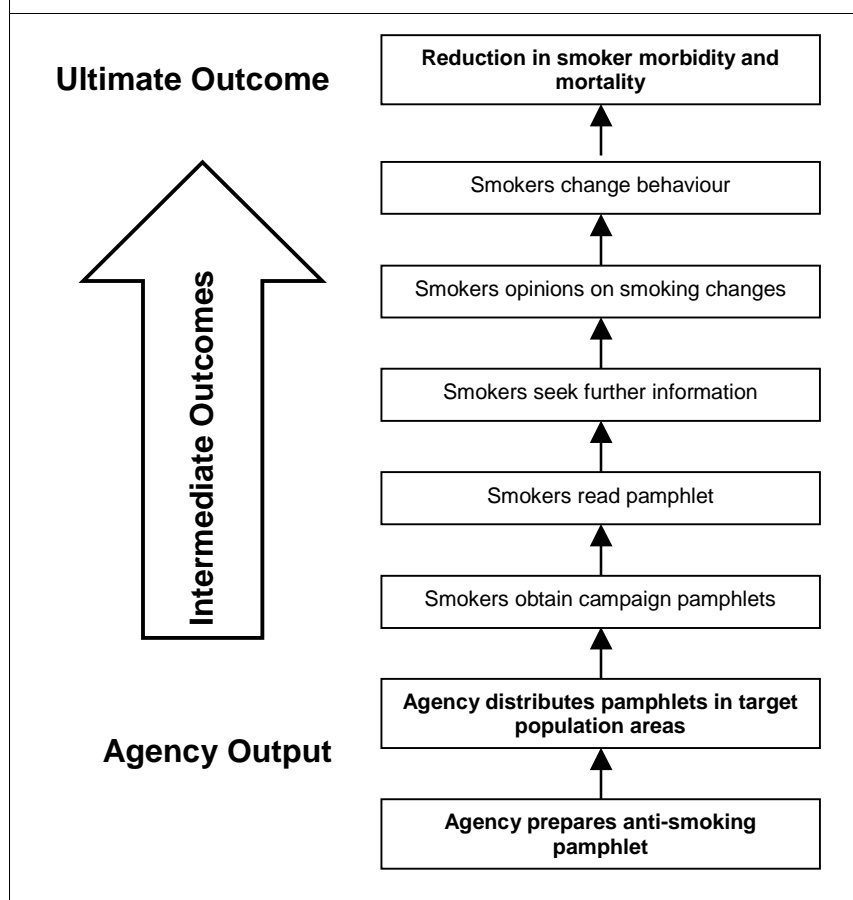
A feature of the program logic approach is the tenet that agencies and programs do not directly achieve their ultimate desired outcome. It identifies that there may be several outputs and intermediate outcomes before the ultimate outcome is achieved. These intermediate steps form a *hierarchy of outcomes*.

Figure 26 shows a hierarchy of outcomes for a typical government health program. The ultimate outcome, that of a healthy population, is not directly achievable. Rather, a number of activities are identified as progressively building towards the desired outcome.

An agency with this hierarchy of outcomes would develop indicators to measure achievement at each intermediate outcome as well as for the ultimate outcome.

By identifying the inputs and factors that the agency can control (and those outside its control) it becomes more focussed on what is actually achievable. This improved focus leads to better performance targets and measurement.

**Figure A1: A Typical Health Program Hierarchy of Outcomes**



## 2. The Balanced Scorecard

Robert Kaplan and David Norton of the Harvard Business School developed the Balanced Scorecard.<sup>40</sup> The Balanced Scorecard acknowledged that no single measure could provide a clear performance target or focus attention on the critical areas of the business. Balanced scorecard presents a balanced presentation of both financial and operational measures.

The Balanced Scorecard contains four types of measures; financial perspective, customer satisfaction, internal processes, and the organisation's innovation and improvement activities.

Traditional financial measures are presented in the Balanced Scorecard by the *Financial* perspective. The indicators will address the question: *what must we do to satisfy our shareholders?*

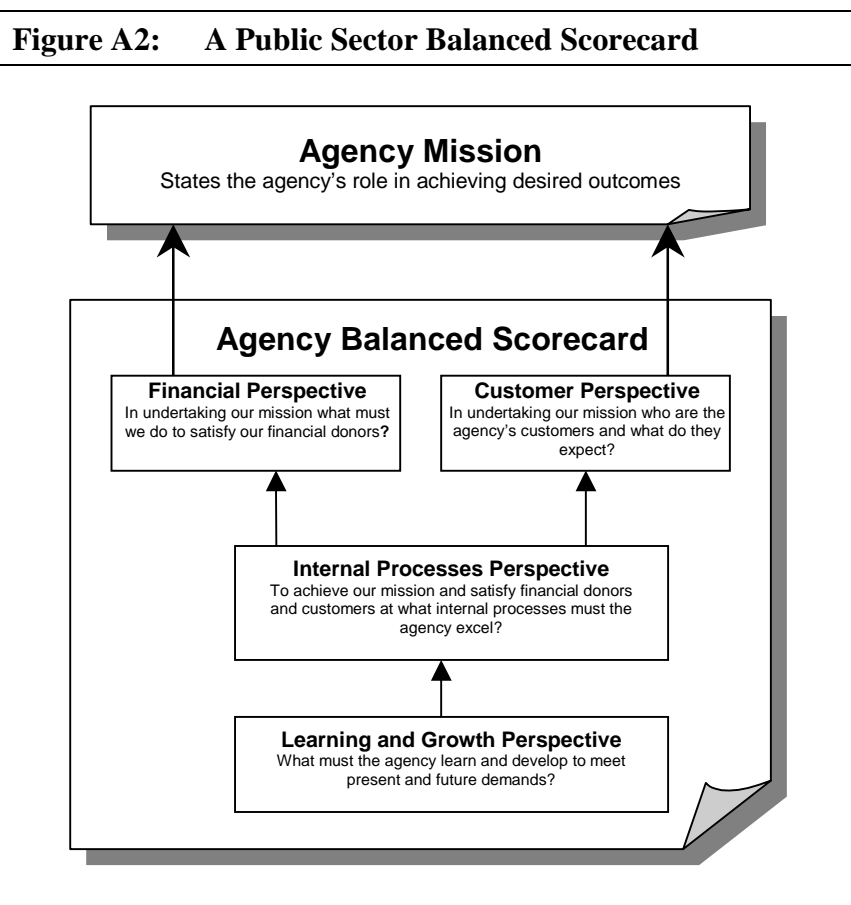
<sup>40</sup> *The Balanced Scorecard – Measures that Drive Performance*, Robert S. Kaplan and David P. Norton, Harvard Business Review, January-February 1992.

The *Customer Satisfaction perspective* translates a general mission statement on customer service into specific measures reflecting the factors that really matter to customers.

An *Internal Business* perspective measures what an organisation must do internally to meet its customers' expectations. The business processes that have the greatest impact on customer satisfaction will be measured.

*Innovation and Learning* perspective measures an organisations ability to innovate, improve and learn so that it can meet the challenges of the future

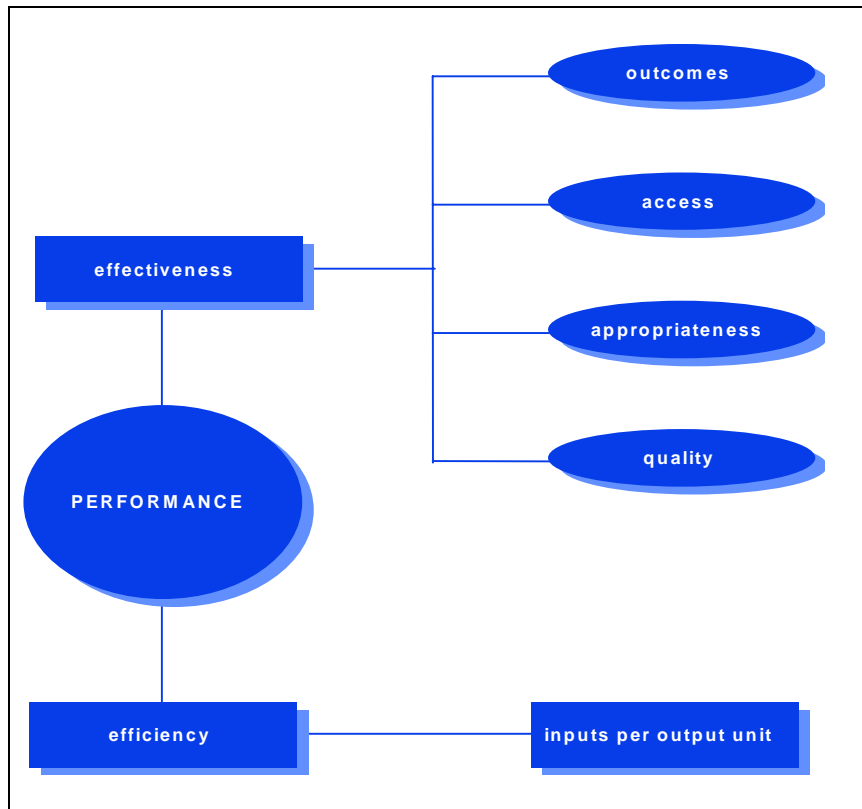
Not surprisingly, the Balanced Scorecard with its primary focus on the profit or shareholder equates well to the private sector. However, with minor adjustments the methodology becomes relevant and appropriate for the public sector. The agency mission statement becomes the driving force rather than a profit/shareholder objective. The model then has the financial perspective recast to look at financial donors. Figure A2 provides an outline of the Balanced Scorecard approach for use in the public sector.



### 3. COAG National Benchmarking<sup>41</sup>

The objective of this project was to establish and publish data that would enable comparisons of efficiency and effectiveness in the provision of government services across the Commonwealth, States and Territories. The focus of the benchmarking is on highlighting cost effectiveness of service delivery rather than consideration of the quality of services.

**Figure A3: A Performance Accountability Model**



Source: Steering Committee for the Review of Commonwealth/State Service Provision, *Report on Government Service Provision: Volume 1*, 1997 p17.

The framework used by this project is shown in Figure A3. This model recognises that there are a number of key aspects to performance. It is a multi-dimensional issue. Since different stakeholders or commentators may focus on different aspects, performance accountability requires accountability mechanisms appropriate to such a task.

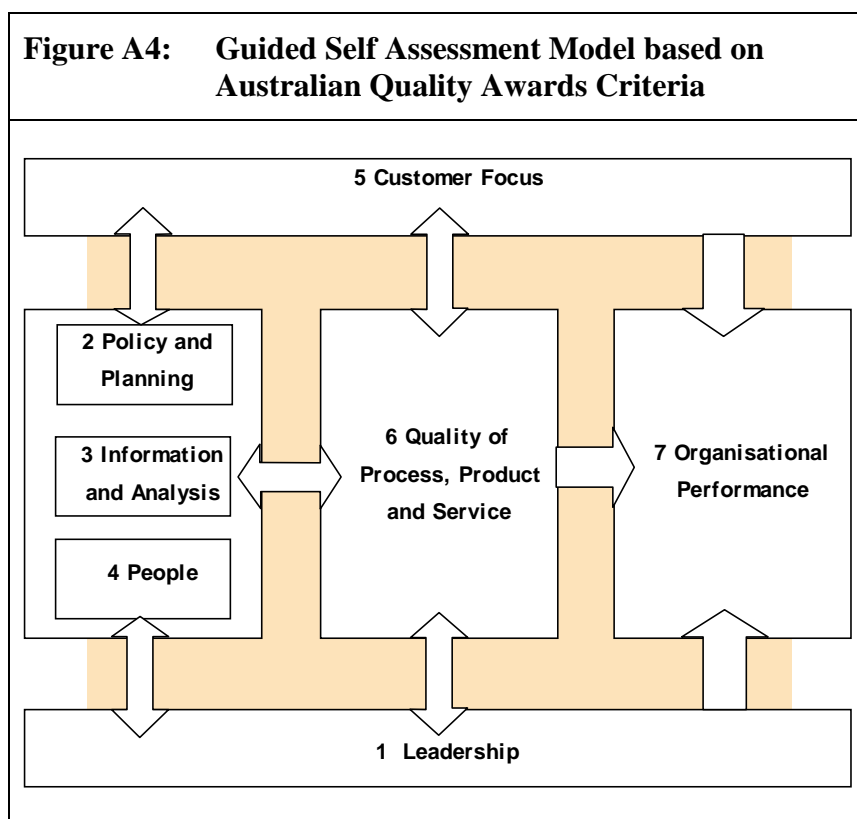
The information it presents at a national level is similar (although not identical) to that presented by SEA reports at the State level. This initiative attempts to develop a consistent national approach to measuring like functions across jurisdictions.

<sup>41</sup> Reports under this project are published as *Reports on Government Services* by the Steering Committee for the Review of Commonwealth/State Service Provision.

#### 4. Total Quality Framework

In 1995, the NSW Premier’s Department conducted a study of agencies to determine their current state of development in the use of quality and performance improvement strategies.<sup>42</sup> As the next stage, NSW agencies are now required to develop a Total Quality Plan, commencing with a self assessment using the Australian Quality Awards Criteria.<sup>43</sup> Agencies are able to benchmark their individual results against consolidated data for other agencies via the internet.<sup>44</sup>

The assessment model employs a battery of criteria which examine seven areas of organisational performance as shown in Figure A4, covering both *results-performance* and *process-performance* dimensions.



Source: Australian Quality Council

<sup>42</sup> S Funnell, “Reflections on Australian Practices in Performance Measurement 1980-1995”, *Evaluation Journal of Australasia*, Vol 8 No. 1 1996, p 38.

<sup>43</sup> Premier’s Memorandum 96-16.

<sup>44</sup> Another benchmarking service using the AQA criteria is run by the Australian Quality Council. Subscribers can benchmark their results against other industry groups.

## 5. Service Efforts and Accomplishments (SEA)

In NSW the Council on the Cost of Government (COCOG) has been preparing Service Efforts and Accomplishments (SEA) reports on various functions of government.<sup>45</sup> SEA reports provide high-level information by policy areas such as Arts and Culture, Health, Transportation and Justice.

SEA reporting presents information on the results of government activities, the activities undertaken and the resources used in the process. Part of this process involves the development of improved performance indicators that address issues of whether agency objectives and activities are aligned.

Not only improved indicators but consistency of indicators across agencies providing a similar type of services is an objective of SEA reporting. This allows a way of aggregating performance data from related programs to allow meaningful comparison in major policy areas.

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<sup>45</sup> In the USA SEA Reporting is advocated by the Government Accounting Standards Board. *See Service Efforts and Accomplishment Reporting: Its Time Has Come*, Government Accounting Standards Board of the Financial Accounting Foundation, Connecticut, 1990 piii.





## Performance Audit Reports

No.	Agency or Issue Examined	Title of Performance Audit Report or Publication	Date Tabled in Parliament or Published
1	Department of Housing	<i>Public Housing Construction: Selected Management Matters</i>	5 December 1991
2	Police Service, Department of Corrective Services, Ambulance Service, Fire Brigades and Others	<i>Training and Development for the State's Disciplined Services: Stream 1 - Training Facilities</i>	24 September 1992
3	Public Servant Housing	<i>Rental and Management Aspects of Public Servant Housing</i>	28 September 1992
4	Police Service	<i>Air Travel Arrangements</i>	8 December 1992
5	Fraud Control	<i>Fraud Control Strategies</i>	15 June 1993
6	HomeFund Program	<i>The Special Audit of the HomeFund Program</i>	17 September 1993
7	State Rail Authority	<i>Countrylink: A Review of Costs, Fare Levels, Concession Fares and CSO Arrangements</i>	10 December 1993
8	Ambulance Service, Fire Brigades	<i>Training and Development for the State's Disciplined Services: Stream 2 - Skills Maintenance Training</i>	13 December 1993
9	Fraud Control	<i>Fraud Control: Developing an Effective Strategy</i> (Better Practice Guide jointly published with the Office of Public Management, Premier's Department)	30 March 1994
10	Aboriginal Land Council	<i>Statutory Investments and Business Enterprises</i>	31 August 1994
11	Aboriginal Land Claims	<i>Aboriginal Land Claims</i>	31 August 1994
12	Children's Services	<i>Preschool and Long Day Care</i>	10 October 1994
13	Roads and Traffic Authority	<i>Private Participation in the Provision of Public Infrastructure</i> (Accounting Treatments; Sydney Harbour Tunnel; M4 Tollway; M5 Tollway)	17 October 1994
14	Sydney Olympics 2000	<i>Review of Estimates</i>	18 November 1994
15	State Bank	<i>Special Audit Report: Proposed Sale of the State Bank of New South Wales</i>	13 January 1995
16	Roads and Traffic Authority	<i>The M2 Motorway</i>	31 January 1995
17	Department of Courts Administration	<i>Management of the Courts: A Preliminary Report</i>	5 April 1995

No.	Agency or Issue Examined	Title of Performance Audit Report or Publication	Date Tabled in Parliament or Published
18	Joint Operations in the Education Sector	<i>A Review of Establishment, Management and Effectiveness Issues (including a Guide to Better Practice)</i>	13 September 1995
19	Department of School Education	<i>Effective Utilisation of School Facilities</i>	29 September 1995
20	Luna Park	<i>Luna Park</i>	12 October 1995
21	Government Advertising	<i>Government Advertising</i>	23 November 1995
22	Performance Auditing In NSW	<i>Implementation of Recommendations; and Improving Follow-Up Mechanisms</i>	6 December 1995
23	Ethnic Affairs Commission	<i>Administration of Grants (including a Guide To Better Practice)</i>	7 December 1995
24	Department of Health	<i>Same Day Admissions</i>	12 December 1995
25	Environment Protection Authority	<i>Management and Regulation of Contaminated Sites: A Preliminary Report</i>	18 December 1995
26	State Rail Authority of NSW	<i>Internal Control</i>	14 May 1996
27	Building Services Corporation	<i>Inquiry into Outstanding Grievances</i>	9 August 1996
28	Newcastle Port Corporation	<i>Protected Disclosure</i>	19 September 1996
29	Ambulance Service of New South Wales	<i>Charging and Revenue Collection (including a Guide to Better Practice in Debtors Administration)</i>	26 September 1996
30	Department of Public Works and Services	<i>Sale of the State Office Block</i>	17 October 1996
31	State Rail Authority	<i>Tangara Contract Finalisation</i>	19 November 1996
32	NSW Fire Brigades	<i>Fire Prevention</i>	5 December 1996
33	State Rail	<i>Accountability and Internal Review Arrangements at State Rail</i>	19 December 1996
34	Corporate Credit Cards	<i>The Corporate Credit Card (including Guidelines for the Internal Control of the Corporate Credit Card)</i>	23 January 1997
35	NSW Health Department	<i>Medical Specialists: Rights of Private Practice Arrangements</i>	12 March 1997
36	NSW Agriculture	<i>Review of NSW Agriculture</i>	27 March 1997
37	Redundancy Arrangements	<i>Redundancy Arrangements</i>	17 April 1997
38	NSW Health Department	<i>Immunisation in New South Wales</i>	12 June 1997
39	Corporate Governance	<i>Corporate Governance Volume 1 : In Principle Volume 2 : In Practice</i>	17 June 1997

<b>No.</b>	<b>Agency or Issue Examined</b>	<b>Title of Performance Audit Report or Publication</b>	<b>Date Tabled in Parliament or Published</b>
40	Department of Community Services and Ageing and Disability Department	<i>Large Residential Centres for People with a Disability in New South Wales</i>	26 June 1997
41	The Law Society Council of NSW, the Bar Council, the Legal Services Commissioner	<i>A Review of Activities Funded by the Statutory Interest Account</i>	30 June 1997
42	Roads and Traffic Authority	<i>Review of Eastern Distributor</i>	31 July 1997
43	Department of Public Works and Services	<i>1999-2000 Millennium Date Rollover: Preparedness of the NSW Public Sector</i>	8 December 1997
44	Sydney Showground, Moore Park Trust	<i>Lease to Fox Studios Australia</i>	8 December 1997
45	Department of Public Works and Services	<i>Government Office Accommodation</i>	11 December 1997
46	Department of Housing	<i>Redevelopment Proposal for East Fairfield (Villawood) Estate</i>	29 January 1998
47	NSW Police Service	<i>Police Response to Calls for Assistance</i>	10 March 1998
48	Fraud Control	<i>Status Report on the Implementation of Fraud Control Strategies</i>	25 March 1998
49	Corporate Governance	<i>On Board: guide to better practice for public sector governing and advisory boards (jointly published with Premier's Department)</i>	7 April 1998
50	Casino Surveillance	<i>Casino Surveillance as undertaken by the Director of Casino Surveillance and the Casino Control Authority</i>	10 June 1998
51	Office of State Revenue	<i>The Levying and Collection of Land Tax</i>	5 August 1998
52	NSW Public Sector	<i>Management of Sickness Absence NSW Public Sector Volume 1: Executive Briefing Volume 2: The Survey - Detailed Findings</i>	27 August 1998
53	NSW Police Service	<i>Police Response to Fraud</i>	14 October 1998
54	Hospital Emergency Departments	<i>Planning Statewide Services</i>	21 October 1998
55	NSW Public Sector	<i>Follow-up of Performance Audits: 1995 - 1997</i>	17 November 1998
56	NSW Health	<i>Management of Research: Infrastructure Grants Program - A Case Study</i>	25 November 1998

No.	Agency or Issue Examined	Title of Performance Audit Report or Publication	Date Tabled in Parliament or Published
57	Rural Fire Service	<i>The Coordination of Bushfire Fighting Activities</i>	2 December 1998
58	Walsh Bay	<i>Review of Walsh Bay</i>	17 December 1998
59	NSW Senior Executive Service	<i>Professionalism and Integrity</i> <i>Volume One: Summary and Research Report</i> <i>Volume Two: Literature Review and Survey Findings</i>	17 December 1998
60	Department of State and Regional Development	<i>Provision of Industry Assistance</i>	21 December 1998
61	The Treasury	<i>Sale of the TAB</i>	23 December 1998
62	The Sydney 2000 Olympic and Paralympic Games	<i>Review of Estimates</i>	14 January 1999
63	Department of Education and Training	<i>The School Accountability and Improvement Model</i>	12 May 1999
64	Key Performance Indicators	<ul style="list-style-type: none"> <li>• <i>Government-wide Framework</i></li> <li>• <i>Defining and Measuring Performance (Better practice Principles)</i></li> <li>• <i>Legal Aid Commission Case Study</i></li> </ul>	August 1999



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