

Memorandum of Understanding

between

Legal Aid NSW

and

Anti-Discrimination Board of NSW

## DATE OF THIS MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made on the  
2016.

day of May

## PARTIES

**Legal Aid Commission of NSW ('Legal Aid NSW')** is a body corporate established under the *Legal Aid Commission Act 1979 (NSW)* of 323 Castlereagh Street Sydney NSW 2000 (ABN 81 173 463 438).

**Anti-Discrimination Board of NSW ('ADB')** is an independent statutory body established under the *Anti-Discrimination Act 1977 (NSW)* (the Act). The ADB office is located at Level 4, 175 Castlereagh Street, Sydney NSW 2000.

(together referred to as the 'Parties')

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## RECITALS

- The Legal Aid Commission of NSW ('Legal Aid NSW') is an independent statutory body established to assist economically and socially disadvantaged people to understand and protect their rights in the legal system. Legal Aid NSW provides free information, advice, minor assistance and representation in the areas of family, civil and criminal law, family dispute resolution services, community legal education programs and develops and distributes a wide range of publications on legal topics.
- The Anti-Discrimination Board is an independent statutory body which was established to administer the Act. The purpose of the Act is to render unlawful racial, sex and other types of discrimination in certain circumstances and to promote equality of opportunity between all persons in NSW.
- The Parties intend to collaborate to facilitate a regular civil law service provided by solicitors employed by Legal Aid NSW (the 'Duty Service') at the ADB to members of the community providing advice on complaints and proceedings arising from the *Anti-Discrimination Act 1977*
- The primary purpose of the Legal Aid NSW Duty Service is to provide free legal advice and assistance:

- to socially and economically disadvantaged members of the community, including those with a disability or who are culturally and linguistically diverse
- in accordance with the overriding principle of early intervention.
- The Parties agree to enter into this Memorandum of Understanding ('MoU') with the intention of:
  - formalising administrative arrangements and the roles of the Parties
  - promoting effective co-operation and dispute resolution processes.

## 1. DEFINITIONS

1.1 **Legal Services** include services that provide:

- (a) legal advice in relation to a person's legal matter
- (b) information of general application such as
  - (a) legal rights, and responsibilities
  - (b) alternative dispute resolution processes
  - (c) legal, court and tribunal processes
  - (d) the availability of a grant of Legal Aid for ongoing representation
  - (e) referrals to other services
- (c) minor assistance such as writing a letter, completing a form, making a telephone call
- (d) Legal Services provided at the Duty Service do not include ongoing assistance or legal representation.

1.2 **MoU** means this Memorandum of Understanding

1.3 **Service Recipient** means a person who requests an appointment with the Legal Aid NSW Duty Service at the ADB and includes both complainants and respondents, but does not include institutional respondents.

1.4 **Legal Services** will be restricted to the following priority clients:

- (a) Those living outside the Sydney metropolitan region (remote and regional) who have difficulty accessing legal services for that reason
- (b) Aboriginal or Torres Strait Islanders
- (c) Those in custody or detention
- (d) Those with no fixed housing
- (e) Minors (under the age of 18)

- (f) People with an intellectual disability
- (g) People in "exceptional circumstances" which may include financial hardship, or substantial difficulty dealing with the legal system

## 2. PERIOD OF DUTY SERVICE

- 2.1 Legal Aid NSW agrees to provide the Duty Service at the Sydney office of the ADB for an initial period of twelve (12) months commencing on 15<sup>th</sup> day of June 2016. At the end of that period the service will be reviewed and assessed and, subject to that assessment, proceed as an ongoing service unless terminated in accordance with clause 10 of this MoU.

## 3. RESPONSIBILITIES OF LEGAL AID NSW

### 3.1 Provision of the Duty Service

- (a) Legal Aid NSW will:
  - (a) provide a monthly civil law service at the Sydney Office of the ADB on the third Wednesday of each month, or at any other time as agreed by the parties
  - (b) provide the ADB with the name of the lawyer rostered to attend prior to attendance.
  - (c) provide Legal Services to Service Recipients concerning discrimination disputes arising under the *Anti-Discrimination Act 1977*
  - (d) provide Legal Services to Service Recipients as follows:
    - i. in relation to complainants, at the complaint stage, or the comments stage, or both
    - ii. in relation to respondents, after receipt of the complaint against them, after they have prepared their response or after receipt of comments
  - (e) provide Legal Services on more than one occasion if required.

### 3.2 Information about the Duty Service

- (a) Legal Aid NSW will:
  - (a) in promoting the Duty Service, acknowledge it is being hosted and operated at the ADB Sydney office
  - (b) provide ADB with printed community information concerning the Duty Service to be included with the acknowledgement of complaint sent to the Service Recipient.

### 3.3 Other matters

(a) Legal Aid NSW will: :

(a) in the event of a conflict between the interests of a Service Recipient and the interests of another Service Recipient, Legal Aid NSW may refer the person to an appropriate legal service.

(b) comply with all reasonable directions of ADB relating to the use of resources and premises, unless these directions conflict with Legal Aid NSW policies. In the case of a conflict between Legal Aid NSW policies and ADB directions, clause 7 of this MoU will apply.

## 4. RESPONSIBILITIES OF ADB

### 4.1 Administrative matters

The ADB will:

- (a) promote the Duty Service by direct referral, information on websites and print media.
- (b) Through its enquiry officers, conciliation officers or officers from the Intake Team make referrals to the Duty Service;
- (c) email the schedule of appointments to the Legal Aid roster co-ordinator the day prior to the advice session
- (d) provide Legal Aid NSW with a room in which to conduct the Duty Service during the agreed operating times
- (e) provide Legal Aid NSW staff with access to a conference telephone if the service recipient is attending by telephone or an interpreter is required, and where possible, access to other office facilities such as a photocopier and fax
- (f) bear the costs associated with the provision of any office facilities
- (g) organise and pay for an interpreter through the Telephone Interpreter Service as required.

### 4.1 Scheduling of client appointments

ADB will:

- (a) be responsible locally for scheduling client appointments at 45 minute intervals for the Duty Service. The booking sheet will include client name, contact number, and whether an interpreter is required
- (b) schedule appointments at the following intervals:
  - 1.00 pm to 1.45 pm
  - 1.45 pm to 2.30 pm
  - 2.30 pm to 3.15 pm

- 3.15 pm to 4.00 pm

#### 4.2 Promotion of the Duty Service

ADB will:

- (a) provide general information to members of the public concerning the availability of the Duty Service, including:
  - (i) how they can make an appointment, and
  - (ii) advising that it is only available for people who are priority clients, as defined in paragraph 1.4
- (b) publicise and promote the Duty Service within its networks.

## 2. NOTICES

- 2.1 Any notices related to this MoU should be addressed in writing to each party's authorised representative as set out in clause 12.

## 3. OCCUPATIONAL HEALTH & SAFETY

- 3.1 ADB and Legal Aid NSW will comply with relevant workplace health and safety legislation.
- 3.2 ADB will provide a secure location for the storage of the Legal Aid NSW solicitor's personal belongings and access to bathroom facilities for the duration of the Duty Service.

## 4. COMPLAINTS

- 4.1 The Parties agree that complaints are to be dealt with the following way:
  - (a) Complaints made in relation to Legal Aid NSW employees are to be referred to the Executive Director Civil Law
  - (b) Complaints made in relation to ADB members or staff referred to the President of the ADB.

## 5. CONFIDENTIALITY

- 5.1 The Parties (including their officers, representatives and employees) will at all times respect the privacy obligations and confidentiality of each other and, in particular, will not disclose to any person or organisation any confidential information relating to any other party or any Service Recipient except:
  - (a) as required by law
  - (b) where the information is already in the public domain, or
  - (c) with the consent of the other party or consent of a Service Recipient.

- 5.2 Where a Service Recipient attends in person, the ADB should instruct the person to bring relevant documents to the Duty Service.
- 5.3 Where a Service Recipient is to receive a Legal Service by telephone the Service Recipient can authorise the release of relevant documents and in those circumstances the ADB will facilitate the copying of those documents from the Service Recipient's file and provide those to the Legal Aid lawyer rostered to attend the Duty Service.
- 5.4 The booking of an appointment by a Service Recipient with the ADB to attend the Duty Service shall be taken to be consent to release any relevant documents, as appropriate, to Legal Aid NSW staff for the purpose of providing Legal Services.
- 6. REVIEW**
- 6.1 The Parties agree that they will meet every six (6) months to review the operation and viability of the Duty Service.
- 6.2 The Parties agree to collect and share agreed data to enable the continued monitoring of the Duty Service.
- 7. DISPUTE RESOLUTION**
- 7.1 If any dispute arises between the Parties in relation to this MoU, the Parties agree to negotiate in good faith to settle the dispute through mutual agreement.
- 7.2 If the dispute cannot be resolved within seven (7) days it will be referred to the Executive Director of Civil Law, Legal Aid NSW and the President of the ADB for resolution.
- 7.3 If the dispute cannot be resolved in accordance with clause 7.2, it must be referred to a mediator agreed upon by the Parties before any legal or other action is taken.
- 8. VARIATION**
- 8.1 This MoU may be varied by agreement in writing by the authorised representatives of the Parties. The Parties will not unreasonably withhold consent to variation.
- 8.2 The Parties acknowledge that any changes to the operation of the Duty Service will not be implemented until they have been discussed with, and agreed upon, by the Parties.
- 9. NO PARTNERSHIP**
- 9.1 There is no intention on the part of the Parties to enter into any relationships of employment, agency or service provision with each other as a result of entering into this MoU or otherwise.

**10. TERMINATION**

- 10.1 Any party may terminate this MoU by giving the other party thirty (30) days' written notice, including reasons for the termination.
- 10.2 If a party intends to terminate the agreement, the authorised representative will notify the authorised representative of the other party of that intention as soon as practicable, and the reasons for it.

**11. APPLICABLE LAW**

- 11.1 This MoU is governed by the laws of New South Wales.

**12. REPRESENTATIVES**

- 12.1 The authorised representative for Legal Aid NSW is:

Name: Monique Hitter  
Position: Executive Director, Civil Law, Legal Aid NSW  
Phone: 9219 5828  
Email: [monique.hitter@legalaid.nsw.gov.au](mailto:monique.hitter@legalaid.nsw.gov.au)

The authorised representative for the ADB is:

Name: Elizabeth Wing  
Position: Acting President, Anti-Discrimination Board of New South Wales  
Phone: 02 9268 5514  
Email: [adbcontact@justice.nsw.gov.au](mailto:adbcontact@justice.nsw.gov.au)

**EXECUTED** for and on behalf of  
**Legal Aid NSW**



Signature of authorised  
representative

*Monique Hitter*

Print name of authorised  
representative

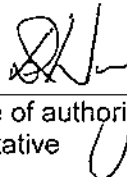
*Director Civil Law*

Title of authorised representative

*31/5/16*

Date

**EXECUTED** for and on behalf of the  
**Anti-Discrimination Board of NSW**



Signature of authorised  
representative

*ELIZABETH WING*

Print name of authorised  
representative

*ACTING PRESIDENT*

Title of authorised representative

*1 JUNE 2016*

Date