Independent review of Victoria Legal Aid Chambers – VLA response

Context

VLA commissioned Deloitte Legal to conduct a review into Victoria Legal Aid (VLA) Chambers in response to a recommendation of the Victorian Access to Justice Review (2016) conducted by the Department of Justice and Community Safety (DJCS). The objectives of the review were to independently review the model for VLA Chambers (VLAC) to consider issues of efficiency and effectiveness, look at alternative models in other Australasian jurisdictions, and make recommendations to ensure the appropriate model is in place in Victoria.

Key findings and recommendations

VLA's response to the recommendations of the review is set out below in Table 1 – VLA's response to the recommendations.

VLA's response should be read in light of the **key findings**.

- Overall, the findings by Deloitte of VLAC were positive.
- The size of VLAC was considered appropriate and was generally comparable with other models in other states with 23 full and part time staff.
- VLAC advocates are bound by the professional and ethical duties of all legal practitioners, (duty to the client and the court), and can observe these duties irrespective of employment with VLA.
- The primary function of VLAC is to provide high quality advocacy for legally aided clients in civil, criminal and family, youth and children's law matters and to conduct strategic litigation to remedy a legal problem or change a policy or process to benefit an individual client and the broader community.
- Overall the management and leadership of VLAC was considered appropriate.
  VLAC offers collegiate support to staff to develop their advocacy skills, increasing the skills and capacity of the staff practice. VLAC partners with external organisations (such as the Trial Counsel Development Program for junior advocates at the Victorian Bar) to ensure better outcomes for legally aided clients.
- The Victorian Bar continues to provide the majority of advocacy services for legally aided clients across the sector.
- VLAC represents another facet of the mixed model of legal service delivery. Since data was collected in 2012, VLAC's work has constituted 7.4 per cent of criminal law legally aided matters, approximately 22 per cent of the civil law legally aided matters and approximately 2.6 per cent of family law matters.
- In 2017–18, VLA managed approximately 29 per cent of all legally aided criminal matters. Of this 29 per cent, VLAC advocates appeared in approximately 69 per cent of criminal trials conducted by VLA's in house criminal law practice. The remaining 31 per cent was briefed to the private bar.

- VLAC includes a co-ordinated briefing function to ensure that our briefing practices across family, civil and criminal law are transparent, co-ordinated and equitable.

Key Recommendations

Key recommendations of the review were:

- While the review recognised that extensive data collection is undertaken by VLA to record grants paid, there are significant limitations to the currently available data;
- The private Bar was found to be more cost effective in the review, noting that there are limitations related to available data which impact the interpretation of the cost effectiveness that VLA should consider; and
- The need to address market gaps in representation in civil and family law matters was noted as a specific area to focus on.

Recommendations and VLA's response

This table will guide Victoria Legal Aid's review implementation plan. The recommendations outlined in the table below are summarised from Deloitte's review. The review included seven findings where no recommendations were made, these are not included in the table below. A number of Deloitte's recommendations are covered more than once, and cross reference each other. Therefore, the numbering system below does not correlate with the Deloitte report.

Recommendation	VLA response
Recommendation 1 – VLA consider options to implement a time recording system Victoria Legal Aid consider options to implement a system of time recording to capture the necessary data to enable reliable cost effectiveness analysis to be completed at appropriate intervals	Agree.
Recommendation 2 – VLA consider options to develop a data framework Victoria Legal Aid consider options to develop a data framework to measure the cost and quality of advocacy services and should include cost metrics, quality metrics (including outcomes, performance and utilisation reviews) and metrics for recording non-advocacy work	Agree.

Recommendation	VLA response
Recommendation 3 – VLA capture data to ensure VLAC is meeting its objectives Victoria Legal Aid should capture categories of data to ensure VLAC is achieving its objectives under the *Legal Aid Act 1978* including: *Financial metrics* - recording of time spent by advocates on cases, or periodic time recording to develop a viable sample size at appropriate intervals including matter types *Case outcomes* - individual case outcomes recording to identify strategic test cases and substantiating early resolution as a measure of quality and efficiency *Utilisation of advocates* – obtain data to reveal the level of experience of the advocate in each case to determine types and numbers of cases completed by advocates at different levels and inform the recruitment decisions and strategy for Victoria Legal Aid Chambers (VLAC) *Qualitative contributions* – time recording above should be used to capture time spent by VLAC advocates on mentoring, training, mentoring, managements tasks and other organisational support	Agree and see recommendations 1 and 2.
Recommendation 4 – VLA consider implementing a formal regional circuit strategy Victoria Legal Aid consider implementing a formal briefing strategy for regional circuit work when briefing VLAC and the private bar and collect the data to assess this strategy	Agree. VLA will consult with the courts and the OPP and give this recommendation further consideration, particularly in the context of VLA's regional services program.

Recommendation	VLA response
Recommendation 5 – VLA identify locations and matter types where VLAC can best service clients Victoria Legal Aid should use the data collected to identify regional locations and matter types where VLAC can best serve to maximise value for money in the delivery of advocacy services	Agree. The Regional Services Program, a multi-year program of work to strengthen regional planning, will provide a basis for more data-driven decision-making to address legal need across the state.
Recommendation 6 – VLA collect data and assess VLAC's presence in regional locations Victoria Legal Aid should collect data and assess the value of the broader organisational benefit provided by the VLAC's presence and provision of services in regional locations	Agree. Regional perspectives will be included in the implementation of recommendation 3.
Recommendation 7 – VLA consider prioritising VLAC family law services to regional areas Victoria Legal Aid consider prioritising family law advocacy services to regional areas where VLA has experienced difficulty briefing the private Bar	Agree. VLA is investigating the extent and causes of family law legal aid service gaps relative to legal need to understand the supply and quality problem properly and formulate targeted recommendations.

Recommendation	VLA response
Recommendation 8 – VLA consider identifying work types that VLAC can deliver in the most cost-effective way Victoria Legal Aid consider identifying the work types VLAC can deliver most cost effectively to maximise its value in the delivery of advocacy services and the results can inform	Agree. Once the work of recommendations 1-3 has been completed.
Recommendation 9 – VLA apply a strategic lens to the types of cases briefed to VLAC in order to deliver the broadest organisational benefit Victoria Legal Aid should take a strategic approach relating to the briefing of work types as between the VLAC and the Victorian Bar, and within VLAC, based on advocates levels and experience to maximise the delivery of a broader organisational benefit	Agree. Once the work of recommendations 1-3 has been completed.
Recommendation 10 – VLA implement a quality assurance process and obtain client feedback on VLAC services Victoria Legal Aid would benefit from implementing a more formal quality assurance process and client feedback surveys	Agree. Note that Victoria Legal Aid already includes VLAC in existing client surveys and will be able to separate out results for VLAC in future surveys.

Recommendation 11 – VLA consider improvements in data collection to undertake a further cost effectiveness survey Victoria Legal Aid consider improvements to data collection, such as consistent time recording, are made to enable VLAC to undertake a more robust cost effectiveness analysis in the future	Agree and see recommendations 1, 2 and 3.
Recommendation 12 – VLA complete a qualitative and quantitative assessment of VLAC non-advocacy activity Victoria Legal Aid should complete a qualitative and quantitative assessment of whether VLAC advocates are the most appropriate contributors to the relevant policy and legislative reform activity	Agree. Once the work of recommendations 1-3 has been completed.
Recommendation 13 – VLA develop a quarterly and annual reporting mechanism for VLAC Victoria Legal Aid should develop a quarterly reporting model which is simple and could capture expenditure and metrics for the VLAC in its quarterly report and the Annual report for public access	Agree. Once the work of recommendations 1-3 has been completed.
Recommendation 14 – VLA consider the cost effectiveness of VLAC in light of outcomes for clients and skills and expertise of advocates Victoria Legal Aid consider that the cost effectiveness of the VLAC be viewed in the broader context of quality and outcomes and that VLAC advocates have the best skills and expertise to provide services and achieve best outcomes for clients	Agree. Once the work of recommendations 1-3 has been completed.