

Chapter 34

Saskatchewan Legal Aid Commission—Providing Legal Aid Services

1.0 MAIN POINTS

By August 2021, the Saskatchewan Legal Aid Commission made progress in improving its processes to provide legal aid services. The Commission implemented two of four outstanding recommendations from our 2016 audit of its processes to provide legal aid services, and was working on implementing the remaining two recommendations.

The Commission set additional measures related to timely and quality delivery of legal aid services provided. It set service expectations related to answering calls made to the application centre and resolving legal matters for clients. These new measures were Board-approved on June 18, 2020. Setting and using clearly written expectations for legal aid services allows management to identify and address factors inhibiting the effective provision of legal aid services.

The Commission now reports rationale for the key differences between actual and expected results for its legal aid services in its annual report. For example, the 2020–21 Annual Report noted that the COVID-19 pandemic often delayed the first court date for clients. Publishing reasons for key differences between expected and actual results shows legislators and the public the Commission identifies underlying causes for its performance, and designs action plans to address services that do not meet its expectations.

However, staff still need to close case files promptly in the electronic case management system to support effective caseload monitoring. Not closing files on time provides an inaccurate picture of lawyers' caseloads and increases the risk of ineffective monitoring and resource allocation.

The Commission has further work planned for conducting annual performance reviews for its lawyers providing legal aid services. It plans to conduct its first set of annual performance reviews for staff lawyers in fall 2021. Doing performance evaluations allows for timely performance feedback and promotes a supportive culture of professional engagement.

2.0 INTRODUCTION

Under *The Legal Aid Act*, the Saskatchewan Legal Aid Commission is responsible for providing publicly-funded legal aid services, as well as for establishing procedures to determine an applicant's eligibility and assessing requests for legal service. The Act also requires the Commission to establish rules and procedures for provision of legal services to persons who do not ordinarily reside in Saskatchewan, and to persons who reside in remote areas of the province.¹

¹ *The Legal Aid Act, 1983*, s.6 and 7.



The Commission provides legal aid services primarily from staff working at its head office and 13 area offices located in 12 communities across Saskatchewan. It employs more than 150 staff who handle approximately 27,000 legal aid cases a year.² In 2021, the Commission budgeted for \$27.4 million and spent \$25.4 million on legal aid services.³

As shown in **Figure 1**, the Commission closed 22,319 cases in 2020–21 from all its 13 area offices.⁴

Figure 1—Total Number of Case Files Closed in 2020–21 by Type from All 13 Area Offices

Files Closed by Type	Criminal Adult	Criminal Youth	Duty Counsel Adult	Duty Counsel Youth	Therapeutic Courts	Family	Child Apprehension	Total
Staff	6,274	1,121	6,580	574	517	2,210	557	17,833
Private Bar	1,287	134	2,469	14	49	356	177	4,486
Totals	7,561	1,255	9,049	588	566	2,566	734	22,319

Source: *Saskatchewan Legal Aid 2020–2021 Annual Report*, p. 12.

Timely access to legal aid services and case closures improve the effectiveness of the justice system (e.g., may reduce time a person is held in custody, may resolve cases faster, may provide protection such as a restraining order sooner to individuals).

2.1 Focus of Follow-Up Audit

This chapter describes our follow-up audit of management's actions on four of the five recommendations we made in our *2016 Report – Volume 1*, Chapter 16, about the Saskatchewan Legal Aid Commission's processes to provide legal aid services to eligible persons.^{5,6} By August 31, 2018, the Commission implemented one of five recommendations.⁷

To conduct this audit engagement, we followed the standards for assurance engagements published in the *CPA Canada Handbook—Assurance* (CSAE 3001). To evaluate the Commission's progress toward meeting our recommendations, we used the relevant criteria from the original audit. The Commission agreed with the criteria in the original audit.

During this follow-up audit, we examined the Commission's related policies and procedures, and reviewed key documents, manuals, and publications. In addition, we

² www.legalaid.sk.ca/about/organization.php (15 April 2021).

³ *Legal Aid Saskatchewan 2020–21 Annual Report*, p. 19. The total expenses for Legal Aid services covered salaries and employee benefits, administrative and operating costs, and provision of legal services spent on private bar lawyers.

⁴ The 13 area offices include: Battlefords, Meadow Lake, Melfort, Moose Jaw, Northern area, Prince Albert, Regina, Saskatoon, rural areas surrounding Saskatoon and Regina, South East, Swift Current and Yorkton.

⁵ Eligible persons are those who meet the eligibility criteria prescribed by the Commission as set out in *The Legal Aid Act* and *The Legal Aid Regulations*, 1995.

⁶ We reported the original audit work in *2016 Report – Volume 1*, Chapter 16, pp. 201–217. www.auditor.sk.ca/publications/public-reports.

⁷ *2018 Report – Volume 2*, Chapter 41, pp. 275–281. www.auditor.sk.ca/pub/publications/public_reports/2018/Volume_2/CH%2041%20-%20Saskatchewan%20Legal%20Aid%20Commission—Providing%20Legal%20Aid%20Services.pdf

interviewed relevant Commission staff, and tested a sample of case files for individuals receiving legal aid services from the Commission, respecting the confidentiality of client information throughout our audit.

3.0 STATUS OF RECOMMENDATIONS

This section sets out each recommendation including the date on which the Standing Committee on Public Accounts agreed to the recommendation, the status of the recommendation at August 31, 2021, and the Commission's actions up to that date. We found the Commission implemented two recommendations and was working on implementing the other two recommendations.

3.1 Untimely Case Closures in the Electronic Case Management System

We recommended the Saskatchewan Legal Aid Commission use its electronic case management system to capture accurately the status of legal aid cases in a timely manner to facilitate monitoring of lawyer caseloads. (2016 Report – Volume 1, p. 210, Recommendation 2; Public Accounts Committee agreement January 11, 2017)

Status—Partially Implemented

The Saskatchewan Legal Aid Commission made progress toward consistently keeping information in its electronic case management system accurate. However, we found instances of criminal and family cases not closed in a timely manner, which affects the Commission's ability to monitor the timeliness of provided legal aid services.⁸

The Commission uses an electronic case management system called LAIN to track and monitor staff lawyers' caseloads (e.g., number of cases assigned to individual staff lawyers or to area offices), as well as case file status (e.g., eligibility approved, client abandoned, matter completed). Also, management uses this information to assign case files to area offices and to staff lawyers, as well as to help determine number of lawyers needed at each area office.

We sampled 30 case files closed within the period ending August 31, 2021, and found:

- In all 30 files, the applicant's information and case closing dates in LAIN accurately matched the information on the corresponding legal aid applications. Clients were deemed eligible on the same date staff created the case files in LAIN.
- The Commission closed 22 tested files in a timely way.
- Five of the files tested did not include a court decision date. However, we considered the reasons for the system not containing a court decision date as reasonable (e.g., settled out of court, client lost contact with the Commission).

⁸ We defined timely as within two weeks of the court date.



- The Commission did not promptly close three of the 30 files we tested, ranging between 30 and 191 days after the last court date.

Testing of an additional 30 files found a further nine instances of files the Commission had not closed within two weeks after the court decision date (i.e., 12 of 60 tested files).

Per discussions with management, they noted the delays in case closures was mainly due to administrative support staff shortages who are responsible for closing case files in LAIN (i.e., on sick leave, delays to replace turnover).

Management also indicated they are undertaking an administrative clean-up for electronic files created, but not closed prior to 2020. The clean-up involves combing all electronic files in LAIN and closing them appropriately within the year of application, starting with the most recent files. Management expects to complete the clean-up process in December 2021.

Not closing files on time inaccurately reflects lawyers' caseloads and increases the risk of ineffectively monitoring, as well as not properly allocating resources to the right place at the right time.

3.2 Expectations Set for Delivering Quality and Timely Legal Aid Services

We recommended the Saskatchewan Legal Aid Commission set expectations to assess the quality and timely delivery of legal aid services.

(2016 Report – Volume 1, p. 212, Recommendation 3; Public Accounts Committee agreement January 11, 2017)

Status—Implemented

The Saskatchewan Legal Aid Commission set two new measures that received Board approval on June 18, 2020 (see **Figure 2**) related to timely delivery of service and resolution of legal matters.

The Board previously approved service expectations related to a client's first meeting with a legal aid lawyer and handling complaints made to the Commission (see **Figure 3**).

As shown in **Figure 2**, the Commission included the following two new measures and associated results in its 2020–21 annual report.

Figure 2—The Saskatchewan Legal Aid Commission's New Outcome Measures

Target (i.e., Expectation)	2020–21 Result	2019–20 Result
85% of calls to application centre answered within 2.5 minutes	79%	75%
85% of legal matters completed ^A	74%	84%

Source: *Saskatchewan Legal Aid 2020–2021 Annual Report*, pp. 8–9.

^A Legal matters completed refers to the percentage of files that a client received resolution to a legal matter.

Setting clear expectations for delivering timely and quality legal aid services helps the Commission determine the extent of efforts and resources needed to reach desired results and address factors inhibiting the effective provision of legal aid services.

3.3 Further Staff Performance Evaluations Needed

We recommended the Saskatchewan Legal Aid Commission conduct written annual performance evaluations of its lawyers. (2016 Report – Volume 1, p. 215, Recommendation 4; Public Accounts Committee agreement January 11, 2017)

Status—Partially Implemented

While the Saskatchewan Legal Aid Commission performs staff probation performance evaluations, and developed a Performance Management Policy, it had not extended its performance evaluations beyond staff's probationary period. Moreover, by August 31, 2021, the Commission had not yet conducted annual performance reviews for its entire staff.

The Commission developed a Performance Management Policy on August 13, 2021. The policy sets written guidance for staff performance evaluations and includes frequency of performance evaluation reviews for staff lawyers using identified practice standards. The policy defines planned timelines for evaluations, for example:

- By end of May, staff (i.e., lawyers and support staff) set SMART goals; clarify performance and behaviour expectations⁹
- By end of September, staff complete mid-year performance reviews; adjust goals if necessary
- By end of April, staff complete their final review

Since our last follow-up in 2018, the Commission implemented a standardized form to evaluate staff during probation and trial periods when staff change office locations (e.g., move from Regina Rural to Battlefords office).¹⁰ However, it had not extended its performance evaluations beyond the probationary period.

The Commission did not undertake any annual reviews in 2020. By August 31, 2021, it developed its annual performance review standardized form and launched its annual performance review process for its staff lawyers. It plans to conduct its first set of annual performance reviews for all staff lawyers between August and mid-September 2021.

Absence of periodic performance evaluations impedes timely feedback on performance. Doing performance evaluations also allows for timely corrective action and promotes a supportive culture of professional engagement overall.

⁹ Specific, measurable, achievable, realistic, and timely.

¹⁰ Evaluations to occur for lawyers on probation after nine months of service and for support staff after four months of service. Trial period evaluations to occur for lawyers after six months and for support staff after three months.



3.4 Publishing Actions to Address Shortfalls

We recommended the Saskatchewan Legal Aid Commission publish reasons for key differences between actual and expected results for legal aid services and establish actions to address shortfalls in its plans.

(2016 Report – Volume 1, p. 216, Recommendation 5; Public Accounts Committee agreement January 11, 2017)

Status—Implemented

The Saskatchewan Legal Aid Commission published reasons for key differences between actual and expected results for its client service standards (e.g., COVID-19 pandemic often delayed the first court date for clients); it published its planned actions to improve legal aid services in its annual report.

The Commission’s 2020–21 Annual Report compares actual to expected results for each of its client service standards and other outcome measures including those set out in **Figure 2** and **Figure 3**.

Figure 3—Existing Client Service Standards

Target (i.e., Expectation)	2020–21 Result	2019–20 Result
90% of clients deemed eligible for legal aid see a lawyer within three weeks	56%	61%
100% of online applications receive a response within two business days	85%	32%
95% of complaints receive a response within two weeks	100%	98%

Source: *Legal Aid Saskatchewan 2020–2021 Annual Report*.

The Commission’s annual report outlines planned actions where actual results do not meet expectations. For example, in 2020–21, the Commission did not meet its expected target of 90% of clients deemed eligible for legal aid see a lawyer within three weeks. As a result, its annual report states that the Commission plans to revisit this measure in its upcoming strategic planning session by either revising the measure or significantly changing its processes.¹¹

We also compared the results of reported measures in the 2020–21 annual report with the information used to calculate these measures from the LAIN system for accuracy and consistency. We found the results on measures (e.g., percentage of calls answered within 2.5 minutes by the application centre) reported in the 2020–21 annual report consistent with the information derived from the LAIN system.

Publishing reasons for key differences between expected and actual results shows legislators and the public the Commission identified underlying causes for its performance, and designed action plans to address services that did not meet its expectations.

¹¹ *Legal Aid Saskatchewan 2020–2021 Annual Report*, p. 7.