



THE SENATE
SENATE FINANCE AND PUBLIC ADMINISTRATION
REFERENCES COMMITTEE

Inquiry into access to legal assistance
Public Hearing – Wednesday 23 September 2015
Question Taken on Notice – Legal Aid NSW

1. HANSARD, Page 34

Ms Hitter: In New South Wales we have the work and development order program which is sponsored by the New South Wales government. It is in relation to fines which have been a very clear pathway into incarceration, particularly for Aboriginal communities. What the program involves is: if you are vulnerable and disadvantaged—essentially, if you are on a benefit of any kind—and you have an unpaid fine, you can work off that unpaid fine by attending counselling or drug and alcohol treatment or mental health treatment or doing voluntary work and paying that fine off at \$30 an hour, which has led to a huge reduction in unpaid fines, particularly in some Aboriginal communities in remote and regional areas. While you are on a work and development order, you also get your licence back immediately, which is cancelled if your fines are underpaid. Driving without a licence is also a very common way of Aboriginal people being incarcerated. This program allows people to work off their fines, get their licence back, get to work, drive their kids to school and reduce the debt. That has had a huge impact.

...

Senator LINES: Are there stats on the community services—

Ms Hitter: The work and development order?

Senator LINES: Yes, the success of that that you could provide to the committee, as long as we are not overburdening you.

ANSWER:

Work and Development Order Scheme

Background

The Work and Development Order (WDO) Scheme in NSW is a world-first initiative that assists disadvantaged people to reduce unpaid fines by participating in activities or treatment programs that benefit them and the community. It applies to court-imposed fines and penalty notices.

The WDO Scheme diverts highly vulnerable people from the fines enforcement system, while promoting skill development, work readiness, engagement with support services and compliance with treatment plans.

The Scheme is delivered in partnership by the Department of Justice, State Debt Recovery, Legal Aid NSW and the Aboriginal Legal Service NSW/ACT.

Eligibility, activities & rates

A person is eligible for a WDO if they have a mental illness, serious addiction, cognitive impairment, intellectual disability or if they are experiencing homelessness or acute economic hardship. Centrelink recipients are eligible to participate.

Approved WDO activities include unpaid work, educational, vocational or lifeskills courses, counselling (including case management), financial counselling, mentoring (for under 25s) and treatment programs for mental illness, medical conditions or serious addiction to drugs, alcohol or volatile substances.

WDOs are 'sponsored' in the community by approved not for profit organisations, government services and registered health practitioners. Up to \$1000 per month can be cleared until the debt is resolved.

WDO Service – Legal Aid NSW & Aboriginal Legal Service NSW/ACT

The Work and Development Order (WDO) Service at Legal Aid NSW commenced in early 2012, in partnership with the Aboriginal Legal Service NSW/ACT. It followed evaluation of the WDO scheme pilot¹ which identified the need for support teams across NSW to promote access to the program.

The WDO Service is centrally coordinated through the Sydney office of Legal Aid NSW, with a WDO solicitor and paralegal officer located in Liverpool, Wollongong, Orange and Lismore. Two Aboriginal Field Officers (WDO) are based at the Aboriginal Legal Service in Bathurst and Parramatta.

Since commencement, the WDO Service has delivered over 1000 WDO education sessions, 8000 legal assistance services and 150 outreach events. It has also expanded the number of WDO sponsor locations from 220 during the pilot to over 1500 at present.

¹ Department of Attorney General and Justice, *A fairer fine system for disadvantaged people. An evaluation of the time to pay, cautions, internal review and the work and development order scheme*, May 2011, Recommendation 56 at 12.

Access to the program in regional and remote areas is critical, where the impact of driving sanctions for fine default is most acute.

Aboriginal Field Officers and Legal Aid solicitors work together to increase the number of registered 'sponsors' providing WDOs in Aboriginal communities. They also link Aboriginal people to the scheme through community legal education and at outreach events and clinics in areas of high fines debt and social disadvantage. WDO information resources for Aboriginal communities include the video *Work and Development Orders: a deadly way to clear your fines debt*. <https://www.youtube.com/user/LegalAidNSW>

While many Aboriginal clients access WDOs in mainstream services, the number of Aboriginal not for profit organisations and health services offering WDOs is increasing. Approximately 5% of approved sponsors are Aboriginal services and include Land Councils, Aboriginal Medical Services, Aboriginal corporations, youth, women's and family services.

Fines days, fines clinics and other innovative outreach strategies are used to assist people in rural, regional and remote communities to access WDOs. Most outreach days are delivered in Aboriginal communities, or in areas with high Aboriginal populations, in partnership with other Legal Aid programs, local service-providers and agencies such as State Debt Recovery.

The WDO service has taken part in outreach days in places such as Wilcannia, Broken Hill, Bourke, Brewarrina, Dareton, Walgett, Taree, Kempsey, Purfleet, Moree, Toomelah, Boggabilla, Kyogle, Murrin Bridge, Lightning Ridge, Condobolin, Lake Cargelligo, Orange, Lithgow, Nowra and Mt Druitt.

Aboriginal clients are assisted to get outstanding fines under management with WDOs, time to pay arrangements and other debt-resolution mechanisms such as write-off for extreme hardship. Licence suspensions and other civil enforcement action, such as property seizure orders, are generally lifted on the spot.

Aboriginal participation

Aboriginal participation rates in the WDO Scheme are high. As at 15 September 2015 Aboriginal clients represented:

- **21.58%** of all approved WDOs (Total clients = 36 313. Aboriginal clients = 7837)
- **20.28%** of WDO credit (Total debt resolved = \$44, 174, 820. Debt resolved by Aboriginal clients = \$8, 958, 436)

Eligibility and activity data for Aboriginal clients shows that:

- **45.68%** apply for a WDO on the ground of acute economic hardship
- **33.41%** undertake education, vocational or life skills courses for their WDO activity

- **31.5%** undertake drug or alcohol treatment

Future directions

Other states are interested in replicating the WDO model and discussions are underway with government and other stakeholders in South Australia, Queensland and Western Australia. The ACT and Victoria have introduced similar programs (with the Victorian scheme due to commence in 2016), although the NSW WDO Scheme remains the most comprehensive system.

Case Studies

1. Our client was fined \$1200 when her dogs escaped from her backyard on 2 occasions. She receives an aged pension and was unable to afford to pay the fines. Through a Landcare program our client had the opportunity to undertake a WDO to reduce her fines by doing volunteer work. She had never been in trouble with the law before and was very concerned as to how she could manage her fines. Our client has been involved in a land regeneration project and has assisted by planting native trees. Ongoing maintenance is required which includes installing tree guards to protect the saplings from native wildlife, watering and weeding. Our client has made good progress in reducing her fines and is pleased be able to assist her local community.
2. Our client trained as a hairdresser but was unemployed for some time. She was completing the New Enterprise Incentive Scheme so she could establish her own mobile hairdressing business in Western Sydney. She was struggling with a range of debts, including a fine for driving an unregistered vehicle. She was about to have her licence suspended for fine default which would mean she couldn't complete her course or get her business up and running. Legal Aid arranged a WDO placement at a support service for victims of domestic violence and sexual assault. Our client volunteered at the service for her WDO, giving women and children free haircuts. The service has offered her paid work on completion of her WDO.
3. Birrang driver training program is giving people in remote and rural areas the opportunity to obtain a drivers licence and clear their fines at the same time. Not having a licence is a huge barrier to employment in regional NSW. The Birrang Learner Driver Program was developed to remove key barriers to licencing including literacy and numeracy difficulties, financial difficulties, proof of identity as well as issues with unpaid fines. Birrang became a Work and Development Order sponsor to assist their clients remove RMS sanctions as a barrier to licencing. Since becoming a sponsor Birrang has supported 120 people through the WDO Scheme, currently managing in excess of \$180,000 of fines debt. "As each barrier is lifted, a person's confidence soars, and gaining a licence, something many of our clients could only dream of prior to the program, suddenly becomes a reality", says Brett, a Birrang trainer. In the past 18 months Birrang's driver programs have delivered 458 new licences to Indigenous and disadvantaged people in NSW.