



Family Lawyers Association

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Sent Electronically

August 8, 2016

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Dear Mesdames:

RE: OCL Portal and File Assignment

I am writing to you on behalf of the Family Lawyers Association membership, many of whom are on the OCL Personal Rights Panel, to thank you for addressing the issues and concerns that our members had with the initial file assignment process through the portal.

We understand and share the goals of achieving a fair and quick distribution of files, but the initial process of sending offers of assignment to several panel members simultaneously did not appear to be a fair process, based on the concerns that we were hearing from our members. To determine the extent of the problems, we did a survey which included email and verbal responses from approximately 25 senior OCL panel members. I attach a summary of those concerns, most of which should be addressed by the changes announced on January 29, 2016, as I feel that it may be beneficial to confirm in writing the discussions over the last few weeks with the OCL and its panel members on this issue.

We are also attaching the submissions that we made on the budget consultations, which may be of interest to you.

Yours truly,

Katharina Janczaruk, Chair

SUMMARY OF SURVEY REGARDING OCL PORTAL ASSIGNMENTS

The primary concern is that the offer of a file is made to multiple lawyers at the same time and that the first person to open the portal gets the file. Lawyers expressed that it was not practical to be available to accept a file within minutes of its offer as OCL lawyers are often not at their desks but in court or seeing clients, including out of office appointments with OCL clients, throughout the day. For many lawyers, their mobile devices cannot access the portal so they are only able to accept a file if they happen to be at a desktop.

A few lawyers reported that they had spoken to either their regional supervisor or the portal administrator about the issue. Most reported that they were told that if they could not accept an offer, they would keep receiving offers until they had accepted one. From our informal survey, however, it appears that some lawyers have not been able to accept any file offer or only one out of several because the offers were already fulfilled by the time they accessed the portal. In some cases this happened in less than five minutes. Other lawyers have been able to accept as many as three offers.

We have also been told that each file would only be offered to two or three panel members at the same time, but we know of at least one instance where the file had to have been offered to at least six lawyers because five lawyers have reported that they attempted to accept it but it was already fulfilled, all within one hour of it being posted on the portal.

There has also been the occasional glitch. One member accepted an offer, only to be told two weeks later that it had in fact been accepted by someone else and that there had been a glitch that allowed more than one lawyer to accept it at the same time. She was only told this, however, when she contacted the administrator to inquire about the file information as a court date was fast approaching.

We have also been told that the number of open files is a factor in determining how many offers we get, which we do not take issue with. The difficulty, however, is that several members have reported that closed files are showing as being open on the portal when in fact they have been closed for some time. It is also not clear if agency files and file assignments to prepare a clinical investigator for testifying at trial are included in our file count for assignment purposes. This would be a concern as those files are very short files, usually involving less than ten hours of actual work on the file and within a very short time.

There were concerns identified about whether consideration is still given to the complexity of the matter or the presence of other factors such as mental health issues, gender, criminality or whether a client was previously represented by an OCL panel member. In at least one instance, a custody/access file was assigned through the portal to one panel member, who was advised a couple of days later that the file would be reassigned to another panel member who had previously represented that child. In our conversations with the OCL we were assured that consideration is still being given to special factors, and we fully support that.

Several members had suggestions about how the process might be fairer while still maintaining the goal of speedy assignment. It was suggested, for example, that the offer should initially be made to

only one lawyer, with it kept open for 24 hours before moving on to the next panel member or opening it up more widely.