CHILDREN’S CRIMINAL LAW PANEL

Information for Applicants

This document provides information for legal practitioners who wish to apply for appointment to the Children’s Criminal Law Panel (the panel) for the representation of children in criminal law matters at panel Children’s Courts in NSW:

- those who have been appointed to the panel and whose current appointments are due to expire and wish to reapply for appointment; and

- new applicants.

The panel applies to the following Courts throughout NSW:

- Children’s Courts; and

- Children’s matters listed in the Local Court

In Children’s Courts and Local Courts presided over by a specialist Children’s Magistrate or the President of the Children’s Court, legal practitioners must be appointed to the panel in order to be eligible to participate on duty rosters and to receive assignments of grants of legal aid.

Legal Practitioners who represent children in criminal law matters listed in other Local Courts are encouraged to apply. Legal Aid NSW may, in appropriate circumstances, assign particular children’s matters listed in those courts to a panel member.

OUR CLIENTS

Children appearing in the Criminal Justice System are vulnerable clients who are disadvantaged in the legal system. Many are from disadvantaged backgrounds. It is important that legal practitioners representing children in the legal system are able to communicate effectively both with them and for them. Legal practitioners must also have an understanding of cross-cultural issues and issues facing socially and economically disadvantaged people, people with mental illness, people with a disability and Aboriginal and Torres Strait Islander people.

Legal Aid NSW acknowledges that people with a disability comprise a significant proportion of the population in New South Wales and are particularly disadvantaged in the justice system. It is therefore important that we acknowledge their rights and interests and deliver services that are inclusive and accessible.
Legal Aid NSW aims to improve access to justice to the people of NSW by providing a range of innovative, high quality legal and other services. In partnership with legal practitioners and professionals from Community Legal Centres, private practices and other agencies, Legal Aid NSW works towards equitable access to justice for our clients.

In particular, private legal practitioners are asked to identify their skills, competencies and experience that address the needs of all people across NSW, including those with disabilities and from multicultural communities.


GENERAL INFORMATION

This panel is established under section 50(1) of the Legal Aid Commission Act 1979 (NSW).

Legal Practitioners appointed to the panel are:

- Appointed for a period of up to 5 years. Appointments to the panel apply to individual solicitors and not to firms.

- Required, as a condition of appointment, to enter into service provision agreements with Legal Aid NSW.

Legal practitioners who are not in private practice or are employed by a Community Legal Centre or the Aboriginal Legal Service cannot apply for appointment to the panel.

This panel is for the direct legal representation of legally aided clients.

Barristers may be appointed to the panel to directly represent legally assisted clients in matters covered by the panel. For direct representation matters, barristers must ensure compliance with the Legal Profession Uniform Conduct (Barristers) Rules, in particular Rule 22.

Where a barrister appointed to the panel receives an offer of an assignment on a direct access basis from Legal Aid NSW, the barrister may decline to accept the assignment if it is inappropriate to do the work without the involvement of an instructing solicitor.

DUTY WORK

Legal practitioners who are appointed to the panel may be eligible to be rostered to perform the role of duty solicitor and appear in assigned case matters.
Inclusion on a duty roster will depend upon the service delivery needs of individual Courts and satisfactorily addressing the selection criteria will not automatically result in inclusion on a duty roster.

Legal Practitioners who are appointed to the panel and rostered to perform duty work must comply with the Children’s Crime Duty Guidelines (as amended). They will also be required to comply with the Local Court Duty Solicitor Scheme Guidelines (as amended).

Any enquiries about the duty solicitor scheme and/or inclusion on a duty roster contact the Legal Aid NSW Duty Coordinator on 9219 5122 or email dutyscheme@legalaid.nsw.gov.au.

GRANTS ALLOCATION GUIDELINES

Appointment to a panel does not confer an entitlement to work.

Grants are assigned in accordance with the Legal Aid NSW Grants Allocation Guidelines (as amended).

Only a very limited number of offers are made via Grants Online for the assignment of legal aid matters to panel legal practitioners. This is because most matters are allocated either to the Legal Aid NSW Criminal Law Division or a panel legal practitioner who has submitted the legal aid application.

Offers that are made via Grants Online are usually matters that are not able to be conducted by the Criminal Law Division and where the initial application was not submitted online by a panel legal practitioner.

Grants of legal aid will be assigned only to legal practitioners who have been appointed to the panel unless there are exceptional circumstances.

FEE RATES

Panel legal practitioners are paid at legal aid rates as notified from time to time and in accordance with Legal Aid NSW policy.

Legal Aid NSW does not pay travel to a panel legal practitioner appearing at their allocated Children’s Court. This applies to both duty and case matters.

SELECTION CRITERIA

Applicants who wish to be considered for appointment to the panel are invited to submit an application. The application must address the selection criteria and provide details and information to demonstrate that all the criteria are met. Do not assume that the selection committee knows of your expertise in a particular area or what you have achieved in the past.
Applicants may not consult with other people in relation to the selection criteria. All answers must be original work. Copying or duplicating the work of another applicant may result in your application for inclusion on the panel being declined.

There are separate online application forms for legal practitioners seeking reappointment to the panel and legal practitioners who have not previously been appointed to the panel.

Legal practitioners seeking reappointment to the panel must:
  - Address the Selection Criteria For Current Panel Members; and
  - Complete the Additional Information And Disclosures.

**SELECTION CRITERIA FOR CURRENT PANEL MEMBERS**

1. **Do you have a current practising certificate?**
   
   (Applicants are not required to provide a copy of their current practising certificate)

2. **Is your certificate subject to any conditions or undertakings?**
   
   If yes, please provide details.

3. **Do you have current NSW Law Society Specialist Accreditation in Criminal Law, Advocacy or Children’s Law?**

4. **Provide an estimate of the total number of criminal law hearings, duty list days and other matters (e.g. s4 applications, committals, etc.) in the Children’s Court jurisdiction you have conducted over the last 2 years.**

5. **Provide some examples of your conduct of children’s criminal matters within the last 2 years that demonstrate your prompt, reliable and professional service. (250 word limit)**

6. **Provide details of the five or more Continuing Legal Education (CLE) points relevant to the practice of representing children and/or advocacy or one or more of the panels to which you are appointed you have undertaken in the last 12 months.**

   Please refer to paragraph 3.14 (previously1.2(xi)) of the Children’s Criminal Law Panel Practice Standards.

   Provide details including the date, name and provider of each CLE course.
If you have not completed a minimum of five CLE points relevant to the practice of representing children and/or advocacy in the past we months, you may include CLE points completed relevant to any other panels you are appointed to.

7. **Are you prepared to comply with the Legal Aid NSW Children’s Criminal Law Practice Standards?**

A copy of the Children’s Criminal Law Practice Standards is available at [Practice standards in legally aided matters webpage](#).

8. **Are you prepared to comply with the Terms and Conditions of Use of Grants Online?**

A copy of the Terms and Conditions of Use is available at [Grants Online](#).

There are separate online application forms for legal practitioners seeking reappointment to the panel and legal practitioners who have not previously been appointed to the panel.

New applicants seeking appointment to the panel must:
- Address the Selection Criteria for New Applicants; and
- Complete the Additional Information And Disclosures.

**SELECTION CRITERIA FOR NEW APPLICANTS**

1. **Do you have a current practising certificate?**

   (Applicants are not required to provide a copy of their current practising certificate)

2. **What was your date of admission and the number of years that you have practised as a solicitor or barrister?**

3. **Is your certificate subject to any conditions or undertakings?**

   If yes, please provide details.

4. **Are there any restrictions on your certificate that would restrict your capacity to represent children?**

   If yes, please provide details.

5. **What is the percentage of your practice in criminal law in the last three years?**

6. **Do you have current NSW Law Society Specialist Accreditation in any area of law?**
If yes, please provide details.

Note: It is not essential to have specialist accreditation to be appointed to the panel.

7. Demonstrate your knowledge of criminal law as it applies to children by reading the following Case Study and providing a response addressing the questions below. (Your answer should be limited to 1,000 words)

Jack is 13 years old.

The police allege that he broke into a school classroom and wrote “F**ka” in chalk on the walls. “F**ka” is also written in chalk on the walls outside the room.

Police allege that they have intelligence that suggests that “F**ka” is Jack’s “tag”.

They believe that he was not alone in the classroom because another tag, “F**kee”, is also written in chalk on the blackboard.

Jack is charged with offences under

1) S112(2) of the Crimes Act 1900 (aggravated break and enter and commit serious indictable offence the circumstances of aggravation being that he was in company with an unknown person); and
2) S4(2) of the Graffiti Control Act 2008 (aggravated marking of premises)

The Police Facts note that he was charged because he did not do an interview to admit the offences and both offences are not eligible to be dealt with under the Young Offenders Act.

His mum will not have him back home and he cannot live with any other family or relatives. He has a long record of shoplifting and common assault. The current offences are alleged to have been committed whilst he was on bail for common assault.

He made a release application at weekend bail court but was refused bail “because he had no accommodation”.

You see Jack in the cells today and he wants to get out. Please advise him about
a) bail; and
b) the options on how to deal with the matter, including
   i) the prospects of success if the matter is defended; and
   ii) the outcomes if he admits offence(s)
8. **Demonstrate your experience as an advocate representing accused young persons in criminal law matters before the Children’s Court. (750 word limit)**

Provide details of three criminal law matters in the Children’s Court within the last two years.

Explain in each example how you demonstrated your knowledge and experience and what you did to prepare the case.

When describing each matter, summarise:

- the charge(s)
- the Prosecution case
- the defence case
- the length of the matter
- how matter was conducted
- the outcome

9. **Demonstrated capacity to act as an effective advocate in a high volume/high pressure court environment.**

Provide an outline of other experience in children’s or other criminal law matters including duty work over the past two years.

10. **Give examples of your experience in dealing with legal issues facing socially and economically disadvantaged young people and young people with a disability. (maximum of 500 words)**

11. **Demonstrated capacity to comply with the NSW Law Society Representation Principles of Children’s Lawyers.**

Provide examples to demonstrate that this criterion is met.

A copy of the Principles is available at [NSW Law Society webpage](#).

12. **Are you prepared to comply with the Legal Aid NSW Children’s Criminal Law Practice Standards?**

A copy of the Children’s Criminal Law Practice Standards is available at [Practice standards in legally aided matters webpage](#).

13. **Are you prepared to comply with the Terms and Conditions of Use of Grants Online?**

A copy of the Terms and Conditions of Use is available at [Grants Online](#).

14. **Commitment to participate in relevant continuing legal education.**
Indicate your commitment to participating in relevant continuing legal education.

15. **Provide the names and e-mail addresses of two referees who can attest to demonstrated relevant experience and the capacity to act as an effective criminal law advocate for children.**

Your referees must be legal practitioners with current practising certificates.

Your referees should be independent. They should not be employed by or have a commercial interest in the firm where you are currently employed.

Judicial officers should not be given as referees.

Please ensure that your referees are aware that they have been nominated and that Legal Aid NSW will contact them seeking a reference. An information document for referees is available in the information package. This document should be given to your referees.

They will be asked to provide information about their direct knowledge of your skills and experience and their opinion on whether or not you are a suitable person for appointment to the panel and the reasons for their opinion. They will also be asked to give their opinion about the extent to which you meet the selection criteria.

Substitute referees will not be accepted.

**ADDITIONAL INFORMATION AND DISCLOSURES**

Applicants must also disclose the following matters in their application:

1. **Sustained complaints under the Legal Profession Act 1987 and/or 2004 and/or Legal Profession Uniform Law (NSW)**

Have you been the subject of any complaint to the Office of the Legal Services Commissioner, the Law Society of NSW or the NSW Bar Association (or an equivalent body in another state) which has resulted in:

- you being cautioned
- you being reprimanded
- conditions being imposed on your practising certificate, and/or
• proceedings being commenced against you for unsatisfactory professional conduct or professional misconduct.

If you have been the subject of any complaint resulting in any of the above please provide details of the complaint and the outcome, whether or not listed publicly on the disciplinary register.

2. Do you have any convictions or pending charges for any of the Disqualifying Offences set out in Schedule 2 of the Child Protection (Working with Children) Act 2012?

If yes, please provide details.

3. Do you have any criminal convictions or pending criminal charges for any other offence (except in relation to minor traffic offences)?

If yes, please provide details.

4. Have bankruptcy proceedings been commenced against you?

If yes, please provide details.

5. Do you have an actual or perceived conflict of interest in relation to your selection onto the panel or your inclusion on the panel generally?

If yes, please provide details.

6. Have you ever been referred to the Legal Aid NSW Monitoring Committee?

The Monitoring Committee considers matters that involve the possible breach by panel legal practitioners of panel service agreements.

If yes, please provide details.

7. Do you consent to the publication by Legal Aid NSW of your name, business address and telephone number in a list of members of the Panel?

This information will appear on the Legal Aid NSW website and in any other form that Legal Aid NSW considers necessary to assist in the administration of services provided by Legal Aid NSW.

8. Are you fluent in any languages besides English?

If yes, please provide details.

CERTIFICATION
By checking "I agree" you acknowledge and certify the following:

- All information disclosed in this application is true and accurate at the time of submission
- The application is your own work
- You understand that Legal Aid NSW may check internal and/or publicly available records to verify the accuracy of information provided in the application or requested as part of the application process
- You understand that Legal Aid NSW may request written referee reports

FURTHER INFORMATION

Applicants can obtain more information about panels from the Panels, audit and practice standards website.

All enquiries should be directed to Professional Practices Branch on (02) 9219 5662 or by email at panels@legalaid.nsw.gov.au.

HOW TO APPLY

Applications must be lodged via the Panels Application website.

Applications may be submitted at any time. However, consideration of such applications may be deferred subject to the Selection Committee meeting schedule (as amended).

SELECTION PROCESS

The selection process involves consideration of applications by a Selection Committee comprising a nominee of the Director Criminal Law and the Director Grants from Legal Aid NSW, a nominee of the Law Society of New South Wales, and a nominee of The New South Wales Bar Association.

All applications received electronically will be acknowledged by email. Applications will be considered by the Selection Committee at suitable intervals as published on the website. Where an application is made by a legal practitioner as a result of another legal practitioner (currently on the panel) leaving their firm the applicant legal practitioner may request that consideration of their application be expedited in the selection process subject to the availability of the Selection Committee.

The Selection Committee makes recommendations to the Chief Executive Officer of Legal Aid NSW who determines the composition of the panel. In the
event that it is proposed to refuse an applicant appointment to the panel, the applicant will receive written notification of the proposed determination with reasons. The applicant will then be given a reasonable opportunity to provide further submissions addressing the proposed decision before the final determination is made.

During the evaluation of applications, the Selection Committee may seek further information from an applicant in relation to their application and will contact referees nominated by the applicant. The Selection Committee will consider such information in evaluating the application. The comments and opinions of referees will be taken into account in the assessment of the application.

In addition to information provided by applicants in response to the selection criteria and references and recommendations of the Selection Committee, Legal Aid NSW may take additional matters into account in determining the suitability of applicants for appointment to the panel.

All applications will be treated in confidence.

PRIVACY

The information provided in applications will be used to determine eligibility for selection to a panel, and may be used in considering a legal practitioner's continued inclusion on a panel.

The applications will be provided to the Selection Committee, which will include representatives of the Law Society of New South Wales and the New South Wales Bar Association. Information provided in an application may be disclosed to the Monitoring Committee, which includes representatives of the Law Society of New South Wales and the New South Wales Bar Association, and to the Office of the Legal Services Commissioner. It is not intended to disclose any personal information contained in applications to any other persons.

You can access and amend your personal information through Grants Online. The Legal Aid NSW Service Desk, telephone (02) 9219 5999, is available to provide assistance to legal practitioners in how to update details in Grants Online.