

CLAIMS FOR PAYMENT SUPPORT DOCUMENT GUIDE

A practical guide for law practice panel members on the types of documents that are acceptable, and required, to support claims for payment for Legal Aid NSW matters.

How to contact the Private Lawyer Quality Standards Unit (PLQS):

- Call us on (02) 9219 5662
- Email us at audits@legalaid.nsw.gov.au
- Reply to any audit request in your Grants Online inbox
- Use the 'Submit Audit Correspondence' function in Grants Online (where you have a Compliance Check ID (CCID) number)

The Private Lawyer Quality Standards Unit (PLQS) undertakes a variety of audits on a regular basis. The reason we undertake audits is to ensure that our clients receive the best quality service, legal advice and representation possible.

This guide provides a quick reference on the types of documents that are acceptable to support claims for payment in legal aid matters. This document is more comprehensive than the [Grants Online Guide to claiming fees](#) however, both documents are provided to assist law practices to comply with all Legal Aid NSW requirements when submitting claims for payment. Ultimately this document has been created to assist panel member law practices to comply with Legal Aid NSW's [Service Agreement](#), [Quality Standards](#), [Terms and Conditions of use of Grants Online](#) and the [Fee scales](#).

Law practice panel members are required to maintain legal aid files in line with the [Quality Standards](#), File Management clause 15. Files can be retained in hard copy form, digital, or a combination of both (hybrid).

Law practices should refer to their grant letter before submitting a claim, to ensure compliance. The grant approval letter will outline the work items approved and may also specify on what basis the work item can be claimed. A proforma invoice will be generated, listing the approved work items available to claim, against the file reference on Grants Online. The [Fee Scales](#) also provide a guide to panel members on the type of work to be undertaken in order for work items to be claimed (e.g. Court Attendance – a fee based on actual time spent, calculated at the hourly rate up to a maximum of five hours). The grant approval letter can be found in your Grants Online inbox.

Law practices cannot claim for any fees or disbursements which have not been approved by Legal Aid NSW.

How are audits conducted?

The principal of the law practice who executed the [Service Agreement](#) is the chief point of contact and responsible for facilitating the audit and ensuring that any conditions imposed, or actions required as a result of the audit findings are complied with. Law practices identified for audit will receive a letter of request via their Grants Online inbox or the principal's email inbox. The letter details the type of audit being undertaken, the files or specific claims identified for audit, what documents are sought in support of a claim, due date for receipt or collection of files.

Should your law practice have a high level of competing priorities at the time you are identified for an audit, and you cannot comply with our request, please do not hesitate to contact PLQS immediately at audits@legalaid.nsw.gov.au.

- **Spot check audits** – are audits undertaken on a specific work item or requirement (including those outlined in the [Quality Standards](#)), can be conducted on active and finalised matters, and usually only require copies of documents that support the claims or requirement.
- **File reviews** – are only undertaken on finalised case files and can be across one or multiple practice areas.
- **Quality audits** – are only undertaken on finalised case files, can be across one or multiple practice areas, and are undertaken by senior inhouse practitioners within the same practice area.

Further information regarding how PLQS actively monitor the delivery and quality of work undertaken by panel law practices and individual legal practitioners, as well as the types of actions that can be taken for non-compliance, can be found in our [Quality Management Guidelines](#).

If non-compliance is identified the law practice will be afforded the opportunity to respond before a final audit outcome is determined.

In cases where the final audit outcome determines that a breach of our requirements is substantiated, depending on the severity of the breach, there are several possible outcomes. These may include a warning about how to comply with our requirements in future, recommendation to undertake training or undergo a follow up audit to ensure non-compliance has been addressed. Where more serious breaches are identified, outcomes such as ceasing to allocate a law practice work, suspension or removal from a panel or all panels are considered, and law practices are provided the opportunity to respond before this action is implemented.

Am I claiming the correct work item or disbursement?

Point 3.3 point 4 (ii) of the [Terms and Conditions of use of Grants Online](#) states:

The legal practitioner may claim fees only for the purpose specified in the grant of legal aid. For example the legal practitioner may not claim fees against hours approved for court attendance to cover preparation undertaken by the legal practitioner.

This is also addressed in point 5 of the [Guide to claiming fees](#) which states:

Work items can only be claimed for the specific purpose for which they were approved. For example, hours specified as being for court time cannot be claimed for preparation work. Similarly, hours allowed for preparation cannot be claimed for another purpose such as court attendance or travel. Court time for a final hearing/trial may only be claimed for the final hearing/trial and not for mentions or procedural hearings.

A good starting point is to check the grant approval letter against the work that has been completed on the matter. You may also want to check the fee scales if unsure. It is also good practice to check that you have documents on file to support your claim at the time you submit a claim.

Most lump sum fees can be claimed partially or in full. If submitting a partial claim, make sure you do not select “*Is this the final claim?*” as another proforma invoice will be generated, containing any remaining balance available to claim, against the file reference on Grants Online.

Am I the practitioner who performed the work in the matter?

The Terms and Conditions of use of Grants Online states:

3.3 Upon submission of a Claim, the submitting legal practitioner must:

- 1. Certify that the claim is correct and accurately reflects the services undertaken and disbursements incurred.*

This certification can only reasonably be made by the practitioner who has performed work in the matter and therefore, the practitioner who performs the work should log in with their Grants Online username and password and submit the claim for payment.

Have I reassigned counsel's invoice?

Law practices should not be claiming on behalf of counsel in a legally aided matter.

Where counsel is approved, a separate proforma invoice is generated for their fees. These invoices must be re-assigned to counsel via Grants Online to enable them to submit their claim for payment. This is stated under point 4 of the [Guide to claiming fees](#).

If you are unsure how to transfer a proforma invoice please follow these instructions [How do I reassign a pro forma invoice?](#) or call Service Desk on (02) 9219 5999 for assistance.

Is this the final claim?

If yes, then in addition to submitting your final claim, you must also submit a file outcome form. When you select yes to “*Is this the final claim?*” on the proforma invoice, you will be prompted to complete and submit a file outcome form along with the submission of your final claim.

Should you miss the above step you can always submit a file outcome form separately. Follow these simple instructions [How to close a file](#) or contact Service Desk at servicedesk@legalaid.nsw.gov.au or (02) 9219 5999 for assistance.

The requirement for practitioners to submit a file outcome form at the completion of a legally aided matter is outlined in the [Quality Standards](#) under the title Case Management and clause 13, which states:

13. The lawyer must:

13.20. review all files on completion of the matter to ensure all necessary steps have been taken before notifying the Grants Division that the matter is finalised by submitting a file outcome form setting out the result of the matter.

Does my claim for court time reflect the actual time spent before the court?

It is acknowledged that often the amount of time spent at court is greater than the time available to claim. This is because Legal Aid NSW does not pay for waiting or cancellation time. In accordance with the Legal Aid NSW fee scales, when representing a legally aided client under a grant of aid practitioners are only eligible to claim for actual time before a judge or magistrate.

Court attendance work items are approved as either a lump sum or unit-based fee, and for each appearance before the court, tribunal or court order conference or mediation, a file note is required to be retained on file in support of such claims which includes the total time before the court. Where you are submitting a claim for a unit-based fee for court attendance, claims should be submitted to the nearest hour or half hour (rounded up). For more information on claiming these types of fees please refer to our [Guide to Claiming Fees](#).

File notes are to be recorded in accordance with clause 15.3. of the [Quality Standards](#). Legal Aid NSW has developed [printable](#) and [digital](#) court attendance file notes, available on our [Forms](#) webpage, to assist practitioners in meeting this requirement.

Importance of retaining file notes

File notes are an essential risk management tool to prove that you have discharged your obligations to a client by providing advice, to prove the contents of a conversation in the event of a dispute and to support claims for court attendance and other work performed in a legally aided matter. Retaining file notes that record details of all conferences, instructions, legal advice provided, notes on reviewing material, telephone conversations, court attendances etc. will ensure that your law practice meets multiple requirements set out in the [Quality Standards](#) including clause 15.2.

Fees

Type of fee	Acceptable supporting documents
<p>Court attendance</p> <p>(All court attendances, across all practice areas e.g. mention/interim/final hearing/trial/sentence etc.)</p>	<p>Record and retain a file note for all court attendances, in line with clause 15.3. of the Quality Standards, ensuring the following information is recorded:</p> <ul style="list-style-type: none"> • date and venue of court appearances and applicable court time • name of the court and judicial officer/tribunal member • the name of the lawyer attending on behalf of the legally assisted person • other parties' representatives • summary of any negotiations and orders or directions made • the date the proceedings have been adjourned to or the outcome of the matter. <p>Several file note templates (digital and printable) are available to use on our Forms webpage to assist in recording this information.</p>
<p>Attendance at family dispute resolution (FDR) conference</p>	<p>Record and retain a file note of attendance, in line with clause 15.3. of the Quality Standards, ensuring the following information is recorded.</p> <ul style="list-style-type: none"> • date and venue of court appearances and applicable court time • name of the court and judicial officer/tribunal member • the name of the lawyer attending on behalf of the legally assisted person • other parties' representatives • summary of any negotiations and orders or directions made • the date the proceedings have been adjourned to or the outcome of the matter. <p>The following file note templates are available to use on our Forms webpage to assist in recording this information: FDR attendance digital file note FDR attendance printable file note</p>
<p>Preparation of court documents in care and protection matters</p> <p>(Statement of claim, consent orders, interim/assessment/ECPO/Section 82, establishment phase, placement phase, application to alter care order, Form 4)</p>	<p>Preparation of court documents is a separate fee payable at each stage in care and protection matters. The following documents must be retained on file to support a claim:</p> <ul style="list-style-type: none"> • copies of prepared and filed court documents, including affidavits, applicable to the stage of the grant and claim for payment. <p>Note: Preparation of administrative court documents, e.g. notice of address for service, notice to clinician to attend court, notice for hearing/listing date, is covered in the fee for taking instructions.</p>

Type of fee	Acceptable supporting documents
<p>Early appropriate guilty plea (EAGP) matters (Committal stage/matters)</p>	<p>EAGP matters are divided into two stages, as well as non-complex and complex matters in accordance with Legal Aid NSW fee scales:</p> <p>Stage 1. Pre-charge certification</p> <p>This stage of the EAGP covers all necessary work involved at the pre-charge certification stage of proceedings.</p> <p>The lump sum fee may be claimed in increments or as a lump sum. The Grant letter and Fee Scales provide details of the work covered under this stage of funding.</p> <p>The following documents are to be recorded and retained on file to support a claim for this stage:</p> <ul style="list-style-type: none"> • copy of the brief (digital form is acceptable) • file notes of all conferences with client, including gaol visits • file note/record of client’s instructions • file note or other correspondence (e.g. emails) of any negotiations with the prosecution • file notes of all court appearances including mentions, summary hearing and summary sentence, in line with Quality Standards clause 15.3. <p>Stage 2. Post charge certification</p> <p>This stage covers all other necessary work involved in the committal matter post charge certification.</p> <p>The lump sum fee may be claimed in increments or as a lump sum. The Grant letter and Fee Scales provide details of the work covered under this stage of funding.</p> <p>The following documents should be recorded and retained on file to support a claim for this stage:</p> <ul style="list-style-type: none"> • a copy of the charge certificate • file notes of all conferences with client, including gaol visits • any additional brief material (digital form is acceptable) • file note/record of client’s instructions • signed instructions from the client if they intend to plead guilty (signed) • file note/record of any telephone call/conversations with counsel or any other party to the proceedings • record of any negotiations with the prosecution • file note/record of any request for a witness to attend court to give evidence

Type of fee	Acceptable supporting documents
	<ul style="list-style-type: none"> file notes of all court appearances including mentions, summary sentence, summary hearing and arraignment, in line with Quality Standards clause 15.3. <p>Attendance at a case conference</p> <p>The fee for a case conference can <u>only</u> be claimed where a case conference was attended in person or via AVL (other types of attendance during COVID-19 may be considered acceptable where it is ordered by the court).</p> <p>The following documents are to be retained on file to support a claim:</p> <ul style="list-style-type: none"> a copy of the signed case conference certificate an email from the DPP that confirms a case conference occurred is also accepted. <p>Appearance at a hearing where the local court has ordered a witness to attend to give evidence</p> <p>Where this work item is approved, the following documents must be recorded and retained on file to support a claim:</p> <ul style="list-style-type: none"> file note of court attendance, in line with clause 15.3. of the Quality Standards, which notes the special attendance e.g. court ordered witness appearance a copy of any court order/listing details about this specific attendance.
<p>Conference with client, witness or other party</p> <p>(All jurisdictions, client, counsel, witness or other party to the proceedings via AVL, telephone, in person, prison visit, juvenile justice centre, detention centre etc.)</p>	<p>Clear and legible file notes are to be recorded and retained on file for all conferences, whether they are in person, via AVL or telephone call:</p> <ul style="list-style-type: none"> the file note should record the date, parties in attendance, summary of what was discussed, client instructions and any legal advice given. <p>Depending on the type of conference, the following information may also be retained to support your claim:</p> <ul style="list-style-type: none"> signed instructions from the client booking details for conferences at a correctional centre/facility in person or by AVL <p>Conference file note templates are available to use on our Forms webpage to assist in recording this information.</p>

Type of fee	Acceptable supporting documents
View	<p>Clear and legible file notes are to be recorded and retained on file where approval is given to conduct a 'view', in line with clause 15.2.3 of the Quality Standards.</p> <p>A court attendance file note template can be used to record details of a view, available on our Forms webpage.</p>
Counsel (briefed) (Court attendances, client conferences, view etc.)	<p>Counsel, where briefed in a matter, must retain records on their file to support claims for payment in line with clause 33 of the Quality Standards, Responsibilities to Legal Aid NSW:</p> <ul style="list-style-type: none"> • retain file notes for all court attendances, in line with clause 15.3. of the Quality Standards • retain file notes for all conferences, that include the date, parties in attendance, summary of what was discussed, client instructions and any legal advice given • retain timely and accurate records of work done (e.g. preparation notes) to enable proper costing of the brief in accordance with Legal Aid NSW fee scales. <p>Note: Counsel is to return the brief, along with all court documentation and file notes of court attendances, conferences, client instructions etc. to the instructing solicitor on completion of the matter, or where counsel ceases to act. These records are to be stored on the instructing solicitor's file.</p> <p>Several file note templates (digital and printable) are available to use on our Forms webpage to assist in recording this information.</p>

Disbursements

The [Quality Standards](#) under File Management requires law practices to keep:

15.2.6. receipts or other verifying evidence of all disbursements claimed for payment from Legal Aid NSW.

and under Briefing experts:

16.6. retain a copy of the expert report and tax invoice and provide to Legal Aid NSW Grants Division upon receipt or request.

The [Terms and Conditions of use of Grants Online](#) under Record Keeping advises the authorised user to:

2.9 retain receipts or other verifying evidence of all disbursements claimed for payment from Legal Aid NSW.

For disbursements consisting of telephone calls, faxes, photocopies or mileage, the law practice/practitioner may retain, instead of receipts, other verifying evidence such as file notes, fax transmission records, copies of telephone accounts, vehicle logs and photocopier logs.

Acceptable supporting documentation for disbursements

Type of disbursement	Acceptable supporting documents
<p>Agents (Court attendance by another panel practitioner on an 'agent' basis)</p>	<p>Unless pre-approved funding specifically for retaining an agent has been provided, any costs associated with using an agent are to be paid from your approved court time or lump sum for that stage.</p> <p>You are required to retain the following document on file:</p> <ul style="list-style-type: none"> • a copy of the agent's tax invoice or receipt for payment. <p>Correspondence between yourself and the agent such as a request for their services, your instructions for their attendance, their correspondence detailing what occurred on the day and any steps to undertake before the next appearance etc. should also be retained on file to support their attendance. This will also ensure compliance with Quality Standards clause 2.14. to ensure the client is represented at all court events.</p> <p>Note: Agents must be eligible to undertake legal aid work for the panel for which the matter relates.</p> <p>The Quality Standards state:</p> <p><i>2.15. if an agent is required to attend a court event, unless there are exceptional circumstances, ensure they are eligible to undertake Legal Aid work and meet the relevant panel requirements, and notify the client of the agent's attendance before the court event.</i></p>
<p>Conduct money</p>	<p>Retain copies of all tax invoices and/or receipts relating to the expenditure of conduct money.</p> <p>Other documents accepted that verify payment made, date, to whom and the relevant matter/legal aid client may include:</p> <ul style="list-style-type: none"> • copy of cheque with associated correspondence • copy of cheque butt with associated correspondence • copy of office ledger.

Type of disbursement	Acceptable supporting documents
	<p>Note: All claims for conduct money made by private lawyers to Legal Aid NSW <u>must</u> be against the “with GST” line item (as you are providing a service).</p>
<p>Commercial agent fees</p>	<p>Retain copies of all tax invoices and/or receipts relating to the expenditure of a commercial agent.</p> <p>Other documents accepted that verify payment made, date, to whom and the relevant matter/legal aid client may include:</p> <ul style="list-style-type: none"> • copy of cheque with associated correspondence • copy of cheque butt with associated correspondence • copy of office ledger.
<p>Travel and accommodation</p>	<p>For travel the following documents are accepted in support of a claim:</p> <ul style="list-style-type: none"> • a file note that contains the date of travel, starting point, destination, start and finish times and the approximate distance travelled in kilometres • copy of the vehicle logbook • copy of tax invoice or receipt for flights, train, or other form of pre-approved transport. <p>For other travel expense claims including accommodation and sustenance:</p> <ul style="list-style-type: none"> • tax invoices or receipts verifying payment made, date and to whom • receipts, with the date and business name for sustenance are acceptable. <p>You can find a court attendance file note (digital or printable) on our Forms webpage under Resources and tools, which you may find of assistance. Most file notes have a section to record travel time and distance.</p>
<p>Interpreter fees</p>	<p>Where an interpreter is required, other than for a court attendance, the following documents are required to be retained on file:</p> <ul style="list-style-type: none"> • original or copy of tax invoices and receipts verifying payment made, date, to whom and the relevant matter/legal aid client. <p>Note: Where an interpreter is required for a court attendance, the request should be made to the court, they will book and pay for an interpreter to attend.</p>

Type of disbursement	Acceptable supporting documents
Expert / professional / psychologist / psychiatrist / medical report, and professional witness expenses	<p>Any claim made for a general or specialist report or professional witness, you must retain on file:</p> <ul style="list-style-type: none"> • copies of tax invoices and receipts verifying payment made, date, to whom and the relevant matter/legal aid client. <p>The Quality Standards under Briefing experts states:</p> <p><i>16.6. retain a copy of the expert report and tax invoice and provide to Legal Aid NSW Grants Division upon receipt or request.</i></p>
General disbursements	<p>For disbursements consisting of telephone calls, faxes, photocopies, file notes, fax transmission records and copies of telephone accounts, vehicle logs and photocopier logs.</p> <p>Copies of:</p> <ul style="list-style-type: none"> • tax invoices or receipts verifying payment made, date, to whom and the relevant matter/legal aid client • a written breakdown (file note) of how the expenses claimed under general disbursements were calculated, for what purpose and which matter/legal aid client • the office ledger • photocopier logs • telephone accounts.