

Fees for State law matters for approvals made on or after 1 August 2006

Criminal Matters - Solicitors

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Fee Scales

1. Local Court - Solicitor Fees

Scale of fees for approvals made on or after 1 August 2006

- Local Court Criminal Law matters
- Children's Criminal Court and associated matters
- Domestic Violence proceedings in Local Court under Crimes Act 1990

Court Appearances	
Attendance at court (excluding mentions)	
Per hour at court (to the nearest ½ hour)	\$140.00
Per half hour at court (or part thereof)	\$70.00
Mentions	
Per half hour at court to a maximum of 1 hour	\$70.00
<p>Waiting time is payable except:</p> <ul style="list-style-type: none"> • if a solicitor has other private work to attend to whilst waiting for legal aid matters to be reached; or • in defended matters. <p>In defended matters solicitors should obtain a marking from the court to reduce waiting time. If a marking is obtained the solicitor will be paid at the mention rate i.e. \$70.00 per half hour at court to a maximum of one hour.</p>	
Defended Hearings	
Initial conference and preparation	\$215.00
Conferences	
Initial conference with client (other than defended hearings)	\$89.00
Subsequent conference with client (where prior approval has been obtained)	\$89.00
Conference with witness (where prior approval has been obtained)	\$89.00
Visit to gaol/shelter	\$81.00
View	
Per hour while at the site of the view. Prior approval for the view must be obtained from the Commission.	\$140.00
Disbursements	
<p>The following classes of disbursements are pre-approved up to \$150.00:</p> <ul style="list-style-type: none"> • Filing fees for subpoenas • Conduct money • Agent fees • Travelling expenses (payable where travel has been previously approved). • Interpreter fees • Legal notices • Medical reports • Psychologist/Psychiatrist reports • Witness expenses • Photocopying and telephone calls (to a pre-approved maximum of \$30.00) <p>Payment of claimed disbursements will be made upon rendering of final account.</p>	
Further disbursements will require prior approval.	
No other fee or allowance will be paid unless prior approval has been obtained.	
Click here for Travel Entitlements	

Legal Practitioners, whether solicitor or counsel, will be paid at the above rates.

Recovery of costs in criminal matters - Solicitors and Counsel in criminal matters will be paid at a rate of 175% of the legal aid fee rates when;

1. An order for costs is made in favour of the legally aided accused person under the *Crimes (Local Courts Appeal and Review) Act 2001* and the *Criminal Procedure Act 1986*, or
 2. An order for costs is made in favour of the legally aided accused person by the Supreme Court in prerogative writ matters or similar proceedings, or
- The legally aided accused person is granted a certificate under Section 2 of the *Costs in Criminal Cases Act 1967*.

Fee Scales**2. Local Court Committals – Solicitor Fees**

Scale of fees for approvals made on or after 1 August 2006.

Court Appearances	
Hearings Per hour at court to a maximum of 5 hours per day for a single accused	\$140.00
Mentions Per half hour at court to a maximum of 1 hour	\$70.00
Section 91 Applications Per hour at court to a maximum of 5 hours per day	\$140.00
Waiting time is payable except if a solicitor has other private work to attend to whilst waiting for legal aid matters to be reached.	
Reading / Preparation fee	
Hearings Prior approval must be obtained from the Commission	By negotiation
Section 91 Applications Prior approval must be obtained from the Commission	By negotiation
Where reading/preparation are undertaken and paid for at Committal level, the Commission may reduce any further fee payable in respect of those items that would otherwise be paid at trial.	
Conferences	
Conference with client (to a maximum of 2)	\$89.00
with witness (where prior approval has been obtained)	\$89.00
Visit to gaol/shelter	\$81.00
Views	
Per hour while at the site of the view. Prior approval for the view must be obtained from the Commission.	\$140.00
Disbursements	
Prior approval must be obtained from the Commission for any expenditure on disbursements. Receipts must be provided with the account.	
Click here for Travel Entitlements	

Legal Practitioners, whether solicitor or counsel, will be paid at the above rates.

Recovery of costs in criminal matters - Solicitors and Counsel in criminal matters will be paid at a rate of 175% of the legal aid fee rates when;

1. An order for costs is made in favour of the legally aided accused person under the *Crimes (Local Courts Appeal and Review) Act 2001* and the *Criminal Procedure Act 1986*, or
2. An order for costs is made in favour of the legally aided accused person by the Supreme Court in prerogative writ matters or similar proceedings, or
3. The legally aided accused person is granted a certificate under Section 2 of the *Costs in Criminal Cases Act 1967*.

Fee Scales

3. Local Court Committals/District Court & Supreme Court Sentences (Practitioner Fees for matters charged on or after 1 January 2006)

Scale of fees for approvals made on or after 1 August 2006.

Fee structures for Committals, District Court Sentence matters and Counsel to Advise on Defence.

The fee structure includes:

- Committal proceedings practitioner fee scale – [Table A](#)
- Counsel to advise on defence fee scale – [Table B](#)
- District Court sentence practitioner fee scale– [Table C](#)
- Associated Guidelines - [Schedule 1](#)

This fee structure accommodates Case Conferencing and will apply for approvals made on or after 1 August 2006.

The [Practice Note issued by the Chief Magistrate](#), '*Procedures to be adopted for committal hearings in the Local Court for proceedings commenced on or after 1 January 2006*', includes matters capable of being committed to the Supreme Court as well as the District Court.

The Commission is presently considering a fee scale and guidelines that accommodate Case Conferencing for matters capable of being committed to the Supreme Court. Prior to any fee scale being adopted, each Supreme Court matter will be assessed on a case by case basis.

- [Chief Executive Officer's Introduction](#)

1. Table A - Committal proceedings practitioner fee scale

<u>Lump sum fee - Preparation</u>	
Client in custody	\$1,292
Client not in custody	\$1,077
Case Conference	\$350
Plea /taking sentence in Local Court	\$140 per hour
Preparation of s 91 or s 93 application	\$280
<u>Appearance on s 91 or s 93 application</u>	
By consent	\$140
Contested	\$140 per hour
<u>Appearance at contested hearing</u>	
Per ½ day	\$350
Full day (to a maximum of 2 days)	\$700
Appearance for each co-accused	
Per ½ day	\$92
Full day (to a maximum of 2 days)	\$184
Mention/Paper committal	\$140 per hour

1) Lump sum fee

A lump sum fee is payable for committal proceedings.

The lump sum fee covers all necessary work involved in reading the prosecution brief, conferences with the client, taking instructions, negotiating with the prosecution and appearing at the first committal mention. The lump sum fee includes an allowance for two client conferences. (Fees may be paid for travel to gaols or courts outside the metropolitan area).

2) Additional preparation

A practitioner appearing for a legally aided client at committal may make an application for payment of fees for additional preparation (including reading, conferences, listening to tape recordings, inspection of exhibits, views) in accordance with Part B of Schedule 1. The amount of additional preparation payable is at the absolute discretion of the Deputy CEO (Legal), Director Criminal Law, Director Grants or their nominee.

Following committal, a practitioner may seek additional preparation in relation to material not served prior to committal. Approval for additional preparation and the fee payable is at the absolute discretion of the Deputy CEO (Legal), Director Criminal Law, Director Grants or their nominee.

3) Mentions

A fee will be paid for every necessary attendance at a committal mention in addition to the first (which is included in the lump sum fee), provided that, where the matter is adjourned for another committal mention, and where appropriate, an application has been made for costs under s 118 of the *Criminal Procedure Act 1986*.

4) Case Conference

A lump sum fee will be paid where the practitioner attends a "face to face" Case Conference with a representative of the DPP before committal. A practitioner should only claim the fee for the Case Conference where the guidelines in Part A (4) of Schedule 1 are met.

The Case Conference lump sum fee may be paid for a "face to face" Case Conference after committal but only with the prior approval of the Deputy CEO (Legal), Director Criminal Law, Director Grants or their nominee.

5) Committals that proceed as a plea in the Local Court

Where the committal is resolved as a summary plea in the Local Court, time in court for making the plea will be paid at the hourly rate.

6) Paper committal

The fee for appearance at paper committal will be paid at the hourly rate.

7) Section 91

A lump sum fee will be paid for preparation of an application to the magistrate for a direction that a witness or witnesses attend to give evidence. A separate lump sum fee will be paid for the appearance before a magistrate on that application. If directions are made by consent, the fee is fixed at \$140. If the application is contested, time in court will be paid at the hourly rate.

It is a condition of payment that the practitioner shall provide to the Commission upon request a copy of the police facts sheet, the index to the prosecution brief of evidence, a copy of the section 91 application, and a copy or advice in writing of the orders made by the magistrate, including orders made by consent.

8) Contested committal hearing

The appearance fee for a contested committal hearing will be paid at the ½ day rate to a maximum of 2 days only.

Application must be made to the Commission for a committal hearing of more than 2 days. Where satisfied that a hearing of more than 2 days is necessary, the fee payable will be at the absolute discretion of the Deputy CEO (Legal), Director Criminal Law, Director Grants or their nominee.

9) Co-accused at contested committal hearing

Where a practitioner represents more than one accused on a contested committal hearing, a fee will be paid for each additional co-accused. The appearance fee for each additional co-accused at the contested committal hearing will be paid at the ½ day rate.

10) Payments to counsel

In committal proceedings, it is a condition of the grant of legal aid that a practitioner must not brief counsel unless the Commission has given express approval.

- **Counsel to appear instead of practitioner**

The Commission may grant approval for a practitioner to engage counsel to appear at the committal hearing on the basis that the practitioner will forego their fees and instead, counsel will be paid at practitioner rates.

- **Direct brief to counsel**

The Commission may grant aid for committal proceedings on the basis of a direct brief to counsel in accordance with Commission Business Rules. A matter assigned to counsel should be confined to those cases that are likely to be a plea of guilty or a trial where an instructing practitioner is unlikely to be required. Counsel will be paid at practitioner rates.

Where a committal is assigned as a direct brief to counsel, if an instructing solicitor is required in the District Court and the case has not been assigned because of conflict, the instructing solicitor will be an employee of the Commission, if available.

- **Exceptional circumstances**

In all other circumstances, the Commission will not grant approval for a practitioner to brief counsel in committal proceedings unless there are exceptional circumstances.

Approval for counsel to appear at committal is at the absolute discretion of the Deputy CEO (Legal), Director Criminal Law, Director Grants or their nominee. Factors that must be present before the Commission will give consideration to briefing counsel are set out in Part C of Schedule 1. The amount that will be paid to both practitioner and counsel shall be at the absolute discretion of the Deputy CEO (Legal), Director Criminal Law, Director Grants or their nominee.

11) Costs

It is a condition of the grant of legal aid, and a pre-condition for payment of fees under the grant, that the practitioner make an application for costs under s 116 of the *Criminal Procedure Act* where, at the conclusion of committal proceedings:

- The accused person is discharged or the matter is withdrawn; or
- The accused person is committed for trial or sentence on an indictable offence other than the subject of the Court Attendance Notice.

2. Table B - Counsel to advise on defence

	Counsel
Counsel to advise on defence	\$862

1) Briefing counsel

A specific grant may be made to counsel to advise on defence where a practitioner is not able to advise the client on how they should plead. A practitioner must not brief counsel to advise on defence unless the Commission has given express approval. The Commission will not grant approval unless there are exceptional circumstances.

The Commission will require from the practitioner, details of the nature of the matter and an explanation of the legal or evidentiary issues about which advice is to be sought. This advice should be obtained before the Case Conference, if possible.

Approval for counsel to advise on defence is at the absolute discretion of the Deputy CEO (Legal), Director Criminal Law, Director, Grants or their nominee.

2) Lump sum fee

A lump sum fee will be paid for counsel to advise on defence where a practitioner is not able to advise the client on how they should plead and the Commission has given express approval. The amount that will be paid to both practitioner and counsel shall be at the absolute discretion of the Deputy CEO (Legal), Director Criminal Law, Director, Grants or their nominee.

3) Additional preparation

Counsel may make an application for payment of fees for additional preparation (including reading and conferences). Approval for additional preparation and the fee payable is at the absolute discretion of the Deputy CEO (Legal), Director Criminal Law, Director Grants or their nominee.

Where additional preparation is allowed, counsel will be required to keep a record of time spent on preparation and a synopsis of material read.

The lump sum for counsel to advise will be deducted from the lump sum fee for preparation for trial.

3. Table C - District Court Sentence Practitioner fee scale

<u>Lump sum fee – Preparation</u>	
Client in custody	\$388
Client not in custody	\$280
<u>Appearance</u>	
Per ½ day	\$350
Full day	\$700
<u>Per co-accused</u>	
Per ½ day	\$92
Full day	\$184
Arraignment/mention (including where matter listed but does not proceed) and taking sentence	\$140

1) Lump sum fee

A lump sum fee is payable where a practitioner represents a client on sentence in the District Court. The lump sum fee covers all necessary work involved in preparing the plea, including conferences with the client.

The lump sum fee includes an allowance for two client conferences. (An additional amount may be claimed for travel where the client is in custody in a gaol outside the metropolitan area, with prior approval).

2) Sentence Hearing

The appearance fee for the plea (making submissions on sentence) will be paid at the ½ day rate.

3) Co-accused

Where a practitioner represents more than one co-accused on sentence proceedings, a fee will be paid for each additional co-accused at the ½ day rate.

4) Arraignment, Mentions, Taking Sentence

A fee will be paid for attending at arraignment, and for every necessary mention.

This fee applies where the matter is listed for sentence but does not proceed. This fee (as opposed to the refresher rate) also applies where sentence is adjourned for judgement and the practitioner attends to take sentence.

5) Payments to counsel

A practitioner must not brief counsel to appear in District Court proceedings before the arraignment. If after the arraignment the matter is remanded for sentence, it is a condition of the grant of legal assistance that a practitioner must not brief counsel unless the Commission has given express approval.

- **Counsel to appear instead of practitioner**

The Commission may grant approval for a practitioner to engage counsel to appear on the basis that the practitioner will forego their fees and, instead, counsel will be paid at practitioner rates.

- **Direct brief to counsel**

The Commission may grant aid for committal proceedings on the basis of a direct brief to counsel in accordance with Commission Business Rules. In such circumstances counsel will be paid at practitioner rates.

- **Exceptional circumstances**

In all other circumstances, the Commission will not grant approval for a practitioner to brief counsel in sentence proceedings unless there are exceptional circumstances.

Approval for counsel to appear on sentence is at the absolute discretion of the Deputy CEO (Legal), Director Criminal Law, Director Grants or their nominee. Factors that must be present before the Commission will give consideration to briefing counsel are set out in Part C of Schedule 1. The amount that will be paid to both practitioner and counsel shall be at the absolute discretion of the Deputy CEO (Legal), Director Criminal Law, Director Grants or their nominee.

Schedule 1

- **Part A – Lump Sum Fee Conditions**

1. The pro forma fee claim sheet must be used for all lump sum fees.
2. Practitioners must comply with the *Practice Standards in Indictable Criminal Matters Assigned to Private Practitioners* by the Commission, as amended from time to time, (the Practice Standards).
3. Lump sum fees are payable only where the practitioner has given adequate and proper attention to the case and has complied with the Practice Standards. The Commission reserves the right to request the practitioner's file/brief and working documents, and if not satisfied that adequate and proper attention has been given, will decide whether all or part of the lump sum fee should be paid, and whether any other action is appropriate.
4. A practitioner should only claim the fee for the Case Conference where:
 - (a) A Prosecution Disclosure Certificate has been served.
 - (b) The client has given instructions to explore the possibility of negotiating a plea to a reduced charge, or amended facts for a plea to the substantive charge.
 - (c) Substantial negotiation has taken place with the DPP.
 - (d) There is a reasonable prospect of resolution of the matter by way of summary disposal or a plea at the Case Conference.
5. In all appropriate cases practitioners must apply for costs orders and where successful, courts asked to order that costs be paid to the Commission.

- **Part B – Preparation Fees for Practitioner at Committal**

A practitioner appearing for a legally aided client at committal may make an application for payment of fees for additional preparation (including reading, conferences, listening to tape recordings, inspection of exhibits, views) in accordance with these guidelines:

1. Additional fees for preparation for committal will only be allowed where the preparation is necessary and in exceptional circumstances.
2. Before additional fees for preparation will be considered, the Commission will require:
 - (a) an estimate of the amount of time it will take to read and prepare the case;
 - (b) details of the nature and extent of preparation, including the nature of documents to be perused.
3. If necessary, the Commission will independently examine the documents and may require further and better particulars about the amount of preparation necessary.
4. Requests for additional preparation must be made within sufficient time for the request to be considered by the Commission
5. A practitioner must keep a record of time spent on preparation and a synopsis of material read, and submit those documents with their invoice.
6. A practitioner is presumed to know the law. A fee will not be paid for researching the law.

7. The appearance fee on a Section 91 application and a contested committal hearing includes remuneration for time that it is ordinarily necessary to spend before and after court each day reading the transcript, preparing arguments and submissions and conferring with the client, plus remuneration for time spent in court.

- **Part C – Briefing Counsel at Committal**

In assigned or in-house matters a combination of the following factors must be present before consideration can be given to briefing junior counsel:

- The client has given instructions to negotiate a plea to a reduced charge.
- A Crown Prosecutor will be attending the case conference.
- The brief involves issues of legal or evidentiary complexity.
- The charge involves allegations of conspiracy.
- The case involves multiple co accused and is complex.
- The client has a mental illness or an intellectual disability and the case is complex.
- A Crown witness is an informer.
- The client has given instructions he or she will give evidence against a co accused.
- The defence is complex.
- The practitioner is in a remote location without ready access to a Public Defender to assist in the conduct of complex negotiations.
- Attempts to negotiate a plea of guilty to a reduced charge with the DPP prior to the case conference have been unsuccessful.
- A grant has been given for counsel to advise on defence.

Approval to retain counsel at this stage is limited to the Case Conference. Separate authority to retain counsel must be obtained for any other stage of the proceedings.

Where counsel has been briefed for the Case Conference and the matter is committed to the District Court for trial, the assigned solicitor should make all efforts to brief the same counsel.

Practitioners must contact the Public Defenders Chambers to ascertain the availability of a Public Defender. A Non-Acceptance of Brief Form from the Public Defenders is required before briefing private counsel. Where a committal is assigned to counsel as a direct brief, aid will not be approved for briefing additional counsel for the Case Conference.

Fee Scales**4. District Court (Appeals from the Local Court) - Solicitor Fees**

Scale of fees for approvals made on or after 1 August 2006.

Court Appearances	
Attendance at court (excluding mentions)	
Per hour at court (to the nearest ½ hour)	\$140.00
Per half hour at court (part thereof)	\$70.00
Mentions	
Per half hour at court to a maximum of 1 hour	\$70.00
Waiting time is not payable	
Conferences	
Conference with client	\$107.00
Visit to gaol/shelter per journey	\$94.00
View	
Per hour while at the site of the view. Prior approval for the view must be obtained from the Commission.	\$140.00
Additional Approvals	
No other fees or allowances will be paid unless prior approval is obtained.	
Click here for Travel Entitlements	

Legal Practitioners, whether solicitor or counsel, will be paid at the above rates.

Recovery of costs in criminal matters - Solicitors and Counsel in criminal matters will be paid at a rate of 175% of the legal aid fee rates when;

1. An order for costs is made in favour of the legally aided accused person under the *Crimes (Local Courts Appeal and Review) Act 2001* and the *Criminal Procedure Act 1986*, or
2. An order for costs is made in favour of the legally aided accused person by the Supreme Court in prerogative writ matters or similar proceedings, or
3. The legally aided accused person is granted a certificate under Section 2 of the *Costs in Criminal Cases Act 1967*.

Fee Scales**5. District Court - Solicitor Fees**

Scale of fees for approvals made on or after 1 August 2006.

Trials	
Mention/not reached: per hour in Court	\$140.00
Instructing Counsel in Court: preparation fee	\$280.00
first day	\$700.00
thereafter per hour	\$140.00
maximum per day	\$700.00
Co-accused	
Each co-accused represented per day	\$196.00
Conferences	
Per accused/witness	\$127.00
Visit to gaol/shelter per journey	\$113.00
With accused where trial exceeds 1 week (up to 2 per week during trial)	\$127.00
Sentence Matters (Does not include Committal matters charged on or after 1 January 2006. See Local Court Committals/ District & Supreme Court Sentences fee scale)	
Preparation fee	\$280.00
Appearance in Court:	
Per hour	\$140.00
Per day maximum	\$700.00
No-Bill Application/Notice of Motion/other Interlocutory Applications (where prior approval has been obtained): per hour	\$140
Per hour while at the site of the view. Prior approval for the view must be obtained from the Commission.	\$140
Clerks	Clerk instructing Counsel will be paid up to 70% of Solicitor fee
Solicitors Conducting District Court Trial without Counsel	Solicitor Advocate fee
Additional reading/ preparation fee: (only allowed in exceptional circumstances)	By negotiation
Click here for Travel Entitlements	

Recovery of costs in criminal matters - Solicitors and Counsel in criminal matters will be paid at a rate of 175% of the legal aid fee rates when;

1. An order for costs is made in favour of the legally aided accused person under the *Crimes (Local Courts Appeal and Review) Act 2001* and the *Criminal Procedure Act 1986*, or
2. An order for costs is made in favour of the legally aided accused person by the Supreme Court in prerogative writ matters or similar proceedings, or
3. The legally aided accused person is granted a certificate under Section 2 of the *Costs in Criminal Cases Act 1967*.

Fee Scales**6. Supreme Court - Solicitor Fees**

Scale of fees for approvals made on or after 1 August 2006.

Trials	
Mention/not reached: per hour in Court	\$140.00
No-Bill Application/Notice of Motion/other Interlocutory Applications (where prior approval has been obtained): per hour	\$140.00
Instructing Counsel in Court: preparation fee	\$280.00
first day	\$700.00
thereafter per hour	\$140.00
maximum per day	\$700.00
Co-accused	
Each co-accused represented per day	\$196.00
Bail applications	
Preparation fee	\$280.00
Appearance in Court: per hour	\$140.00
Conferences	
Per accused/witness	\$127.00
Visit to gaol/shelter per journey	\$113.00
With accused where trial exceeds 1 week (up to 2 per week during trial)	\$127.00
Sentence Matters (Does not include Committal matters charged on or after 1 January 2006. See Local Court Committals/ District & Supreme Court Sentences fee scale)	
Preparation fee	\$280.00
Appearance in Court:	
Per hour	\$140.00
Per day maximum	\$700.00
Per hour while at the site of the view. Prior approval for the view must be obtained from the Commission.	\$140.00
Clerks	Clerk instructing Counsel will be paid up to 70% of Solicitor fee
Additional reading/ preparation fee: (only allowed in exceptional circumstances)	By negotiation
Click here for Travel Entitlements	

Recovery of costs in criminal matters - Solicitors and Counsel in criminal matters will be paid at a rate of 175% of the legal aid fee rates when;

1. An order for costs is made in favour of the legally aided accused person under the *Crimes (Local Courts Appeal and Review) Act 2001* and the *Criminal Procedure Act 1986*, or
2. An order for costs is made in favour of the legally aided accused person by the Supreme Court in prerogative writ matters or similar proceedings, or

The legally aided accused person is granted a certificate under Section 2 of the *Costs in Criminal Cases Act 1967*.

Fee Scales**7. Court of Criminal Appeal - Solicitor Fees**

Scale of fees for approvals made on or after 1 August 2006.

Briefing counsel to obtain his/her opinion on the prospect of success of the proposed appeal	\$560.00
Conference with the appellant	\$127.00
Travel to Gaol / Shelter per journey	\$113.00
Mention/not reached: per hour in Court	\$140.00
Instructing Counsel in Court: first day	\$700.00
• thereafter per hour	\$140.00
• maximum per day	\$700.00
Preparation / Reading Fee - By negotiation	
Click here for Travel Entitlements	

Recovery of costs in criminal matters - Solicitors and Counsel in criminal matters will be paid at a rate of 175% of the legal aid fee rates when;

1. An order for costs is made in favour of the legally aided accused person under the *Crimes (Local Courts Appeal and Review) Act 2001* and the *Criminal Procedure Act 1986*, or
2. An order for costs is made in favour of the legally aided accused person by the Supreme Court in prerogative writ matters or similar proceedings, or
3. The legally aided accused person is granted a certificate under Section 2 of the *Costs in Criminal Cases Act 1967*.

Fee Scales**8. High Court - Solicitor Fees**

Scale of fees for approvals made on or after 1 August 2006.

Briefing counsel to obtain opinion on the prospect of success of the proposed appeal	\$560.00
Conference with the appellant	\$127.00
Travel to Gaol / Shelter per journey	\$113.00
Mention/not reached: per hour in Court	\$140.00
Instructing Counsel in Court: first day	\$700.00
• thereafter per hour	\$140.00
• maximum per day	\$700.00
Preparation / Reading Fee - By negotiation, but only in exceptional circumstances	
Click here for Travel Entitlements	

Fee Scales

9. Travel Entitlements in State criminal law case and duty matters for approvals made on or after 1 August 2006

- A **travel allowance and lump sum payment** is paid if the total return distance travelled from the legal practitioner's office to court exceeds 70 kilometres, and the practitioner is travelling to a court located outside the Sydney metropolitan area.
- The Sydney metropolitan area includes all courts within the area bounded by:
 - Hornsby;
 - Penrith;
 - Campbelltown; and
 - Sutherland.
- Unless there are exceptional circumstances, the travel allowance will not be approved where the matter could be assigned to:
 - a practitioner located within 35kms of the court;
 - a practitioner who is significantly closer to the court;
 - a practitioner who has other matters at the court on the same day.
- Prior approval to claim the travel allowance must be obtained from the Commission.
 - Unless there are exceptional circumstances, the travel allowance will not be approved in circumstances where a practitioner appointed to a panel has nominated their availability for a panel court out outside the geographical area surrounding their office.
 - Pursuant to the Duty Solicitor Scheme Guidelines travel is not generally paid to practitioners rostered to attend court as the Duty Solicitor except where there has been prior approval by the Commission or the duty work is undertaken in one of the regions nominated in the Duty Solicitor Scheme Guidelines.
- If travel allowance is being claimed, approval should be sought in the original application.
- Travel allowance cannot be claimed more than once per day to the same court, regardless of the number of legal aid applicants being represented at that court.
- A local agent or the duty solicitor – where there is no conflict precluding them from appearing – should be asked to appear for appropriate court attendances e.g. mentions.

Travel Allowance

Where approved, travel expenses will be paid at a rate of **\$0.60 per kilometre**, or where appropriate, a return economy airfare (which ever is the cheaper).

Lump sum payment for travel time

A lump sum of **\$100 for travel time** is paid in addition to the travel allowance of \$0.60 per kilometre. The lump sum payment for travel time may only be claimed once per day on which travel allowance is payable.

Accommodation

Where approved, accommodation expenses (including sustenance) will be paid as incurred to the maximum rates determined by the Public Employment Office of the NSW government.

Frequently Asked Questions

Is travel allowance available for appeals?

Yes, provided the criteria for the travel allowance is met and prior approval is obtained.

If travel allowance is approved for a trial, is an allowance paid for accommodation and meals?

Yes. Actual expenses for meals and accommodation may be payable for each 24 hour period up to the maximum rates determined by the Public Employment Office of the NSW government. If an accommodation and sustenance allowance is approved, the applicable rate will be provided to you at the time of the grant or extension. All receipts must be provided and actual expenses only may be recovered.

My client has asked me to appear for him at a court that is more than 35kms from my office. My client insists that I appear and is unwilling to accept another solicitor. Is the travel allowance available?

Generally a travel allowance will not be approved where a practitioner located within 35 kms of the Court is available to appear for the client. In exceptional circumstances travel may be approved e.g. where the client is a child, or has a disability, and the Commission agrees that continuity of representation is in the interests of the client.

Is travel allowance payable for views?

Yes, however, prior approval for the view must be obtained from the Commission and will be limited to views conducted outside the Sydney metropolitan area.

Should I engage an agent for mentions?

Yes, in appropriate cases, e.g. mentions, a practitioner located close to the Court can be engaged as an agent. This could include the duty solicitor where there is no conflict.

How do I calculate the driving/road distance between destinations?

The website <http://www.travelmate.com.au> may assist in calculating distance between destinations.