

Supreme Court Bail Duty Scheme: Legal Aid NSW

Information package for Practitioners and
Referees

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Information for Practitioners

Expressions of Interest

Legal Aid NSW is inviting Expressions of Interest from current members of the General Crime Panel for appointment to the new Supreme Court Bail Duty Scheme.

If an interested and relevantly qualified practitioner is not on the General Crime Panel they are required to provide an undertaking that they will apply for inclusion to the General Crime Panel at the next available opportunity. These practitioners will need to satisfy the Selection Committee that they understand and will apply the General Criminal Law Practice Standards.

The Supreme Court Bail Duty Scheme practitioners will assist Legal Aid NSW in house Solicitors in the provision of duty services in the LA NSW state wide Supreme Court Bail practice – based at Legal Aid NSW Head Office and at the Supreme Court in Sydney.

The number of practitioners appointed to the Supreme Court Bail Duty Scheme will be limited to a small number to ensure the most effective, efficient and economical provision of Legal Aid services.

Brief Outline of Practice

Practitioners will need to be fully apprised of, and apply, Legal Aid NSW Policies in relation to Bail Applications in the Supreme Court.

A comprehensive understanding of, and compliance with, the Bail Act 2013 and Practice Note SC CL 11 (which commenced on 7 March 2016) is required.

When accepting work under the scheme, appointed practitioners are required to be available for 2 days of duty work, approximately 3 weeks apart. The first day is at the LA NSW Head Office in Sydney where the practitioners receive the allocated files, conduct AVL conferences with applicants, make decisions as to the applicant's eligibility for Legal Aid and prepare the application. Subsequent follow up work is often required. The second day is the day when the allocated matters are listed in the Supreme Court for the applications to be heard. The same practitioner is required for both days.

Liaison with, and provision of relevant documentation (eg. instruction sheets, signed Notices of Readiness and/or other relevant documentation) to the in house Supreme Court Bail Callover Solicitor is required, at the latest, by 3 pm on the Friday preceding the applicant's callover date in the Supreme Court. The appointed practitioner does not attend the Callover.

Selection criteria

Practitioners who wish to be considered for appointment to the Supreme Court Bail Duty Scheme are invited to submit an Expression of Interest.

Only practitioners who satisfy all of the selection criteria will be considered for appointment.

If the number of practitioners expressing interest (who satisfy all of the selection criteria) exceed the limited number to be appointed, the Selection Committee will determine the most meritorious practitioners for appointment.

The Expression of Interest should address the selection criteria set out below and provide details and information to demonstrate that the criteria are met:

- Confirmation that the practitioner is a member of the Legal Aid NSW General Crime Panel
- If not a member of the Legal Aid NSW General Crime Panel, the practitioner must provide a written undertaking that they will apply for inclusion to that panel at the next available opportunity. The written undertaking must also include confirmation that the practitioner has read the General Criminal Law Practice Standards and will apply them in their Supreme Court Bail duty work in so far as they are relevant to that work.
- Five years post-admission experience and devotion of not less than 50% of normal full-time practice to the area of criminal law in each year of the past three year period
- Extensive knowledge of criminal law with experience in summary and indictable jurisdictions (max. 500 words)
- Significant experience in the Supreme Court Bail jurisdiction – either significant periods of time with one of the regular service providers in that jurisdiction or multiple appearances over more than 3 years in a private capacity (not briefing Counsel to appear) (max. 500 words)
- Demonstrated experience representing legally aided clients in court (max. 300 words)
- Proven experience providing quality representation in a high volume work environment (max. 300 words)
- Ability to identify and address the legal issues faced by people:
 - with a mental illness and/or disability
 - who are socially and economically disadvantaged
 - from wide-ranging, culturally diverse backgrounds (max. 300 words)

- Excellent interpersonal skills, including the ability to understand and effectively communicate with people from a wide range of backgrounds including clients, their families/ sureties and other professionals (max. 300 words)
- Excellent file management skills, including making file notes, accurate recording of client instructions and recording court outcomes (max. 300 words)
- Knowledge of Legal Aid NSW policies and procedures to determine applications of legal aid and advise clients about eligibility. (max. 300 words)
- Willingness and ability to comply with Legal Aid NSW policies, guidelines, reporting and administrative requirements, including providing brief written reports to the Legal Aid Review Committee upon applicant appeal when refused Legal Aid (max. 300 words)
- Willingness to attend training/ induction session for Supreme Court Bail duty practitioners, as required by Legal Aid NSW
- Practitioners should also provide the name and contact details (including telephone number and email address) of **two referees** who can attest to the practitioner's demonstrated ability to meet the above selection criteria. The comments and opinions of referees will be taken into account in the assessment of the Expression of Interest.
- Nominated referees should be independent. They should not be employed by or have a commercial interest in the firm where the practitioner is currently employed.
- Judicial officers should not be given as referees.
- An information document for referees is included in the information package. The practitioner should give a copy of this document to each nominated referee.
- Referees may be asked to provide information about their direct knowledge of a practitioner's skills and experience and their opinion on whether or not the practitioner is a suitable person for appointment to the Supreme Court Bail Duty Scheme and the reasons for their opinion. They may also be asked to give their opinion about the extent to which the practitioner meets the selection criteria.

General Information

Appointments to the Supreme Court Bail Duty Scheme will apply to specific individual practitioners and not to firms.

In addition to their current service provision agreement relating to the General Crime Panel (or undertaking relating to same outlined above), practitioners who are appointed to the Supreme Court Bail Duty Scheme will be bound, as a condition of appointment, to adhere to all policies, procedures and guidelines relating to the Supreme Court Bail Duty Scheme.

The number of practitioners appointed to the Supreme Court Bail Duty Scheme will be limited and will be determined by Legal Aid NSW.

Allocation of work

Salaried solicitors of Legal Aid NSW undertake the majority of duty matters at the Supreme Court covered by the Supreme Court Bail Duty Scheme. The amount of legal aid Supreme Court Bail duty work which is available for private practitioners is limited and is dependent upon the capacity of the salaried solicitors to meet the demand for legal aid services. This capacity can vary over time.

Appointment to the Supreme Court Bail Duty Scheme does not confer an entitlement to work. However, as far as possible, Legal Aid NSW is committed to ensuring a fair and reasonable distribution of work amongst practitioners appointed to the Supreme Court Bail Duty Scheme. Given the requirement that the appointed practitioner must be available for 2 days, approximately 3 weeks apart, there will be occasions where a practitioner is unable to accept the offer for work. Unless exceptional circumstances exist, offers of work will be made by NSW Legal Aid in sequence to each of the practitioners appointed to the Supreme Court Bail Duty Scheme.

Supreme Court Bail duty work covered by the Supreme Court Bail Duty Scheme will be allocated only to practitioners who have been appointed to the Supreme Court Bail Duty Scheme unless there are exceptional circumstances.

The allocation of Supreme Court Bail duty work to a practitioner under the Supreme Court Bail Duty Scheme will not affect the usual order of panel offers made to that practitioner as a member of the General Crime Panel, or duty or urgent case work under the Back Up Duty Scheme.

Fee rates

Practitioners allocated work under the Supreme Court Bail Duty Scheme will be paid at Legal Aid NSW rates as notified from time to time and in accordance with Legal Aid NSW policy.

Travel

There will be no payment for travel to any practitioner under the Supreme Court Bail Duty Scheme.

How to apply

Expressions of Interest must be emailed to SCBailsdutyscheme@legalaid.nsw.gov.au by 11 November 2016.

When completing an expression of interest a practitioner should:

- address each selection criteria and supply all other relevant information as required to demonstrate that all the criteria are met
- not assume that the selection committee knows of the practitioner's expertise in a particular area, past experience or achievements
- adhere to the maximum word limits where applicable.

Selection process

All Expressions of Interest will be considered by a selection committee comprising of a nominee of the Legal Aid NSW Director Criminal Law, a nominee of the Legal Aid NSW Director Grants, a nominee of the Law Society of NSW and a nominee of the NSW Bar Association.

The selection committee will make recommendations to the Legal Aid NSW Director Criminal Law or his delegate who will determine appointments to the Supreme Court Bail Duty Scheme.

During the evaluation of Expressions of Interest, the selection committee may seek further information from a practitioner in relation to the Expression of Interest, may require a practitioner to attend an interview to discuss the Expression of Interest and may contact referees nominated by the practitioner. The selection committee will consider such information and/or interview in evaluating the Expression of Interest. The comments and opinions of referees will be taken into account in the assessment of the Expression of Interest.

Legal Aid NSW is not bound to appoint any practitioner expressing an interest in being appointed to the Supreme Court Bail Duty Scheme.

Practitioners will be advised in writing of the outcome of their Expression of Interest.

All Expressions of Interest will be treated in confidence.

Privacy

The information provided in an Expression of Interest will be used to determine initial appointments under the Supreme Court Bail Duty Scheme, and may be used in considering a practitioner's re-appointment to the Supreme Court Bail Duty Scheme during a Review of Appointments. The Expression of Interest will be provided to the selection committee and to the Director Criminal Law or his delegate, where appropriate. It is not intended to disclose any personal information contained in Expressions of Interest to any other persons.

Enquiries

Enquiries relating to the lodgement of Expressions of Interest should be directed to Mark Rosalky, Project Officer on (02) 9219 5012 or to SCBailsdutyscheme@legalaid.nsw.gov.au.

Information for Referees

A legal practitioner who has expressed interest in being appointed to the Supreme Court Bail Duty Scheme for Legal Aid NSW has nominated you as a referee. The Expression of Interest is currently being assessed.

As a referee, you will be contacted shortly and asked to provide information about your direct knowledge of the practitioner, their skills and experience, and your opinion on whether or not the practitioner is a suitable person for appointment to the Supreme Court Bail Duty Scheme and the reasons for your opinion. A brief outline of the Supreme Court Bail Duty Scheme is attached.

You may also be asked to give your opinion on the extent to which the practitioner meets the selection criteria for appointment to the Supreme Court Bail Duty Scheme, a copy of which is attached.

Your comments will be recorded in writing and will form part of the decision making process.

Your comments may be disclosed to the practitioner.

As a referee, you should be independent. You should not be the employer of the practitioner or have a commercial interest in the firm where the practitioner is currently employed. Practitioners should not nominate judicial officers as referees.

If circumstances change and you are unable to act as the practitioner's referee, please advise the practitioner at the earliest possible opportunity.

Thank you for taking the time to undertake this important role in the selection process.

If you require any further information please contact Mark Rosalky, Project Officer on (02) 9219 5012 or email SCBailsdutyscheme@legalaid.nsw.gov.au

Brief Outline for Referees

Practitioners will need to be fully apprised of, and apply, Legal Aid NSW Policies in relation to Bail Applications in the Supreme Court.

A comprehensive understanding of, and compliance with, the Bail Act 2013 and Practice Note SC CL 11 (which commenced on 7 March 2016) is required.

When accepting work, appointed practitioners are required to be available for 2 days of duty work, approximately 3 weeks apart. The first day is at the LA NSW Head Office in Sydney where the practitioners receive the allocated files, conduct AVL conferences with the applicant, make decisions as to the application and prepare the application. Subsequent follow up work is often required. The second day is the day when the allocated matters are listed in the Supreme Court for the application. The same practitioner is required for both days.

Liaison with, and provision of relevant documentation (eg. instruction sheets, signed Notices of Readiness and/or other relevant documentation) to the in house Supreme Court Bail Callover Solicitor is required, at the latest, by 3 pm on the Friday preceding the applicant's callover date in the Supreme Court. The appointed practitioner does not attend the Callover.

The work to be conducted by the practitioners appointed to the Supreme Court Bail Duty Scheme is complex, specialised and high volume. It is anticipated that only a small number of practitioners will be appointed to the Scheme. Referees should carefully consider whether the practitioner is suited to this work.

Selection criteria for information of referees

Practitioners who wish to be considered for appointment to the Supreme Court Bail Duty Scheme are invited to submit an Expression of Interest.

Only practitioners who satisfy all of the selection criteria will be considered for appointment.

The selection criteria for appointment is set out below:

- Confirmation that the practitioner is a member of the Legal Aid NSW General Crime Panel
- If not a member of the Legal Aid NSW General Crime Panel, the practitioner must provide a written undertaking that they will apply for inclusion to that panel at the next available opportunity. The written undertaking must also include confirmation that the practitioner has read the General Criminal Law Practice Standards and will apply them in their Supreme Court Bail duty work in so far as they are relevant to that work.
- Five years post-admission experience and devotion of not less than 50% of normal full-time practice to the area of criminal law in each year of the past three year period
- Extensive knowledge of criminal law with experience in summary and indictable jurisdictions (max. 500 words)

- Significant experience in the Supreme Court Bail jurisdiction – either significant periods of time with one of the regular service providers in that jurisdiction or multiple appearances over more than 3 years in a private capacity (not briefing Counsel to appear) (max. 500 words)
- Demonstrated experience representing legally aided clients in court (max. 300 words)
- Proven experience providing quality representation in a high volume work environment (max. 300 words)
- Ability to identify and address the legal issues faced by people:
 - with a mental illness and/or disability
 - who are socially and economically disadvantaged
 - from wide-ranging, culturally diverse backgrounds (max. 300 words)
- Excellent interpersonal skills, including the ability to understand and effectively communicate with people from a wide range of backgrounds including clients, their families/ sureties and other professionals (max. 300 words)
- Excellent file management skills, including making file notes, accurate recording of client instructions and recording court outcomes (max. 300 words)
- Knowledge of Legal Aid NSW policies and procedures to determine applications of legal aid and advise clients about eligibility. (max. 300 words)
- Willingness and ability to comply with Legal Aid NSW policies, guidelines, reporting and administrative requirements, including providing brief written reports to the Legal Aid Review Committee upon applicant appeal when refused Legal Aid (max. 300 words)
- Willingness to attend training/ induction session for Supreme Court Bail duty practitioners, as required by Legal Aid NSW
- Practitioners should also provide the name and contact details (including telephone number and email address) of **two referees** who can attest to the practitioner's demonstrated ability to meet the above selection criteria. The comments and opinions of referees will be taken into account in the assessment of the Expression of Interest.
- Nominated referees should be independent. They should not be employed by or have a commercial interest in the firm where the practitioner is currently employed.
- Judicial officers should not be given as referees.
- An information document for referees is included in the information package. The practitioner should give a copy of this document to each nominated referee.
- Referees may be asked to provide information about their direct knowledge of a practitioner's skills and experience and their opinion on whether or not the practitioner is a suitable person for appointment to the Supreme Court Bail Duty Scheme and the reasons for their opinion. They may also be asked to give their opinion about the extent to which the practitioner meets the selection criteria.

