

# SERIOUS CRIMINAL LAW PANEL



## Information for Applicants

This document provides information for the following solicitors who wish to apply for appointment to the Serious Criminal Law Panel (the panel) to act for legally aided clients:

- 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.

## OUR CLIENTS

People with mental illness, disabilities, from culturally diverse and non-English speaking backgrounds, women, Aboriginal and Torres Strait Islander people, victims of domestic violence, children and young people and people who are or have been in institutions experience difficulties when enforcing and defending their rights.

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 lawyers and professionals from Community Legal Centres, private practices and other agencies, Legal Aid NSW works towards equitable access to justice for persons with disabilities and/or from culturally and linguistically diverse backgrounds.

Private lawyers 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.

Further details in relation to our client base are available at [www.legalaid.nsw.gov.au](http://www.legalaid.nsw.gov.au). Please refer to the Legal Aid NSW [Annual Report](#).

## GENERAL INFORMATION

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

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Lawyers 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.

Lawyers 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.

## **SERIOUS CRIMINAL LAW PANEL**

The panel is only open to solicitors. Solicitors appointed to the panel instruct barristers in legally aided matters in the following jurisdictions throughout NSW:

- Local Court Committals (for complex criminal matters )
- Supreme Court Trials
- Supreme Court Sentences
- Court of Criminal Appeal (CCA)
- High Court and Federal Court
- Land and Environment Court (prosecutions and appeals to the Court of Appeal)

Additionally, matters heard in jurisdictions other than those listed above that are covered by the General Criminal Law Panel but are categorised as complex may be assigned to solicitors appointed to the panel.

Matters categorised as complex include:

- Manslaughter trials and pleas;
- Matters where the trial is complex because of the nature of the charge or the defence or where significant case management is required. For example: sex slavery, fraud or money laundering charges where there are more than 30 counts and/or the total value is more than \$500,000.00. Those trials involving a number of expert witnesses and identified by the trial judge as requiring significant case management pursuant to s.141 *Criminal Procedure Act 1986*;
- Where the trial length is estimated at 20 days or more;
- Where the brief of evidence is more than 5,000 pages;
- All terrorism matters;
- Matters where there are multiple complainants and/or multiple defendants in sexual assault trials.

A barrister may be briefed by a panel solicitor in appropriate matters subject to Legal Aid NSW policies and prior approval.

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This is not a panel for solicitors to conduct matters as a solicitor advocate.

## **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).

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

## **FEE RATES**

Lawyers will be paid at [legal aid rates](#) as notified from time to time and in accordance with Legal Aid NSW policy.

## **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.

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

Lawyers 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)

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

If yes, please provide details.

**3. Is your name entered on the High Court Register of Practitioners?**

**4. Do you have current NSW Law Society Specialist Accreditation in Criminal Law?**

**5. Provide an estimate of the percentage of your matters in the Supreme Court and CCA over the last 2 years.**

**6. Demonstrated prompt, reliable and professional service in the conduct of complex legal aid matters covered by the panel during the current and previous appointment to the panel. (250 word limit)**

Provide examples of conducting or having instructed counsel in complex criminal law matters that demonstrate your prompt, reliable and professional service. A detailed summary of some cases you have had carriage of or have instructed counsel would be useful in addressing this selection criterion.

**7. Demonstrated capacity to comply with the revised Legal Aid NSW Serious Criminal Law Practice Standards.**

Provide examples to demonstrate your capacity to comply with the revised practice standards particularly in relation to the panel lawyer's responsibilities to legally aided clients, to Legal Aid NSW and its file management requirements.

A copy of the revised practice standards is available to be viewed or downloaded at [Practice standards in legally aided matters webpage](#).

**8. Demonstrated capacity to comply with Legal Aid NSW reporting and administrative requirements.**

Provide examples to demonstrate that you have complied with Legal Aid NSW reporting and administrative requirements including the use of [Grants Online](#).

**9. Provide the names and e-mail addresses of two referees who can attest to demonstrated relevant experience, the capacity to act as an instructing solicitor and provide prompt, reliable and professional service.**

Your nominated referees should be two Public Defenders you have recently briefed in a criminal matter in the District or Supreme Court, or for an appeal to the CCA or the High Court. If you have not briefed a Public Defender in these types of matters, provide the names and contact details of two private barristers you briefed.

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Your referees should be independent and must be barristers with current practising certificates.

Judicial officers should not be given as referees.

It is recommended that you inform your referees 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 reappointment to the panel and the reasons for their opinion. They may also be asked to give their opinion about the extent to which you meet the selection criteria.

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There are separate online application forms for lawyers seeking reappointment to the panel and lawyers 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 held a practising certificate?**

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

If yes, please provide details.

### **4. Is your name entered on the High Court Register of Practitioners?**

### **5. What is the percentage of your practice in criminal law since admission?**

### **6. Do you have current NSW Law Society Specialist Accreditation in Criminal Law?**

If yes, you will only need to complete questions 10, 11, 12, 13 and the Additional Information and Disclosures.

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**7. Demonstrated knowledge of criminal law, procedure and evidence and experience in appearing and instructing in complex criminal matters in the Local, District and Supreme Courts. (750 word limit)**

Give details of three complex criminal matters in the last three years where you acted or were involved at the committal proceedings and/or instructed Counsel at the subsequent trial/sentence.

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

When describing each matter, summarise:

- the charges on the indictment
- the Crown case
- the Defendant's case
- the length of the trial
- the outcome
- the name of the parties and the name of the legal representatives

Please note that one of your nominated referees will be required to comment on one of the examples provided in questions 7 or 8 [see question 13.a)].

**8. Demonstrated capacity to prepare matters for hearing and instruct Counsel in the CCA or the High Court, including the capacity to take instructions and advise appellants, prepare briefs for counsel and conduct legal research. (500 word limit)**

Describe your experience in criminal appeals to the CCA or the High Court and provide 3 examples involving complex issues of law and procedure in which you instructed the appellate Counsel.

Explain in each example how you demonstrated your knowledge and experience.

When describing each matter, summarise:

- the charges on the indictment
- the Crown case
- the defence case
- the significant legal, procedural and evidentiary issues in the case
- the outcome.

If you have not appeared in an appeal to the CCA or the High Court give 3 practical examples of matters in which you have taken instructions and advised clients, prepared briefs for Counsel, instructed Counsel and conducted legal research.

Please note that one of your nominated referees will be required to comment on one of the examples provided in questions 7 or 8 [see question 13.a)].

**9. Demonstrated knowledge and understanding of the Criminal Appeal Act 1912, Court of Criminal Appeal Rules and Supreme Court of New South Wales Practice Notes**

Provide an example that shows your knowledge and understanding of the operation of the Court of Criminal Appeal, in particular Supreme Court Practice Note CCA 1 (v.2).

**10. Capacity and willingness to comply with the Legal Aid NSW Serious Criminal Law Practice Standards.**

Indicate that you are aware of the Legal Aid NSW Serious Criminal Law Practice Standards and will comply with those practice standards.

A copy of the current practice standards is available to be viewed or downloaded at the [Practice standards in legally aided matters webpage](#).

**11. Demonstrated capacity and willingness to comply with Legal Aid NSW reporting and administrative requirements.**

Describe your capacity to comply with Legal Aid NSW reporting and administrative requirements including the use of [Grants Online](#).

**12. Ability to identify and address legal issues, understand and effectively communicate with people:**

**a) with mental illness, disabilities and/or who have been the victim of domestic violence;**

**b) who are socially or economically disadvantaged;**

**c) from wide ranging culturally diverse backgrounds.**

Address each issue separately. Give examples that show that you have the ability to address legal issues and briefly describe how you would communicate with a client where these issues arise. Also give examples that show that you have the ability to identify these issues and briefly describe how you would represent a client where these issues arise.

**13. Provide satisfactory references from two suitable referees**

**Provide the name and e-mail addresses of two referees who are able to attest to your relevant experience to undertake criminal matters in the District or Supreme Court, or for appeals to the CCA or the High Court.**

- a) **Nominate a referee who can specifically attest to your capacity and relevant experience.**

**It is preferable that this referee is a Public Defender you have recently briefed. If you have not recently briefed a Public Defender, please nominate a private barrister. This referee will be required to comment on one of the examples provided in questions 7 or 8. You must specify which matter (e.g. R v --).**

- b) **Nominate a referee who can provide a general reference.**

**It is preferable that this referee is a Public Defender you have recently briefed. If you not recently briefed a Public Defender nominate a private barrister you have recently briefed.**

Your referees should be independent and must be barristers with current practising certificates.

Judicial officers should not be given as referees.

It is recommended that you inform your referees 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 may also be asked to give their opinion about the extent to which you meet the selection criteria.

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## **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**

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- **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 lawyers of panel service agreements.

If yes, please provide details.

- 7. Have you ever been removed from any Legal Aid NSW panels for failing or refusing to cooperate with an audit?**

Legal Aid NSW carries out audits of work assigned to lawyers, including claims for payment of work, pursuant to s52B of the *Legal Aid Commission Act 1979* (NSW).

If yes, please provide details.

- 8. 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.**

Please answer "Yes" if you consent. Please answer "No" if you do not consent.

**9. 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

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## **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](mailto: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 Legal Aid NSW Director Criminal Law, a nominee of the Director for Professional Practices, a nominee of the Law Society of New South Wales, and a nominee of The New South Wales Bar Association.

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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 lawyer as a result of another lawyer (currently on the panel) leaving their firm the applicant lawyer may request that consideration of their application be expedited 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 Committee may seek further information from an applicant in relation to their application and may 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 lawyer'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 lawyers in how to update details in [Grants Online](#).

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