

Instrument of Delegation

to administer the Legal Aid Commission Act 1979

July 2013

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Introduction

Under the Instrument of Delegation the Chief Executive Officer (CEO) has delegated the provision of legal aid function to Legal Aid NSW staff and in specific circumstances, private lawyers.

These delegations are subject to the **Financial Delegations** under section 12 of the *Public Finance and Audit Act 1983*, executed by the NSW Attorney-General dated 20 June 2012.

Preamble

Legal Aid NSW provides legal services through a mixed model of service delivery of in-house employed solicitors and assigned legal practitioners. The administration of legal aid for both in-house solicitors and assigned practitioners is managed by the Grants Division.

Officers in the relevant in-house Legal Services Divisions, being the authorised officers under this Instrument, are required to certify whether or not an application for legal aid satisfies the policies and guidelines of Legal Aid NSW (apart from the means test); consequent upon such certification, the application or other request will be determined by the authorised officers in the Grants Division.

The delegations set out in this Instrument relate to officers in the Legal Services Divisions, the Grants Division, the Legal Policy Branch and the Finance Division (except for item 34 which relates to private lawyers providing duty services).

Each delegation may be exercised by the delegated officer or by a more senior officer in the same division.

Procedures and guidelines developed by individual business areas may restrict but not expand on these Delegations.

**Instrument of Delegation
to administer the *Legal Aid Commission Act 1979 (NSW)*
effective from 21 September 2012**

Under section 69 of the *Legal Aid Commission Act 1979 (NSW)* (the Act) I delegate the authority vested in me under section 17 of the Act to officers employed in Legal Aid NSW as follows:

Deputy Chief Executive Officer, Operations
Executive Director Grants and Community Partnerships
Executive Director Criminal Law
Deputy Executive Director Criminal Law
Executive Director Family Law
Executive Director Civil Law
Director Grants
Manager Operations (Grants)
Executive Director Finance
Grants Officer, Grants Grade 3-4 and above
Senior Advocate
Solicitor
Solicitor in Charge, Regional Office
Solicitor to Legal Aid NSW
Solicitor Accounts Receivable, Corporate Finance
Advocate Clerk, Veterans' Advocacy Service, Civil Law Grade 6-7 and above

to exercise the functions set out below.

This document is to be read in conjunction with an Officer's role and responsibilities as set out in his or her position description or statement of duties.

A delegation can be exercised by the nominated delegated officer or an officer of a higher grade.

Any financial delegation included in this Instrument is subject to the Instrument of Financial Delegation approved by the NSW Attorney General. It provides delegations to incur commit or sanction expenditure under s12 of the *Public Finance and Audit Act 1983*. Officers cannot exceed the monetary limits set out in the Attorney General's Delegation.

References in this instrument to 'determining officer' or determination refer to the officer delegated to determine an application for legal aid under section 34 of the Act and Part 7 of the Instrument of Delegation.

References to a 'certifying officer' or certification refer to an officer delegated to make recommendations to a determining officer whether or not a section 33 authorisation or grant of legal aid should be made in respect of an application for legal aid in an in-house matter.

Under section 58(a) of the Act, the Legal Aid Review Committee (LARC) has the functions and discretions that the person or body whose determination, variation or decision is the subject of the appeal had in respect of the matter the subject of the appeal.

I have not delegated certain functions which are set out in Attachment A.

**Bill Grant
Chief Executive Officer
Legal Aid New South Wales**

1 Section 25 – Divulging information or document to a court or tribunal, with the consent of Legal Aid NSW, under section 25(4)(l)

Item	Delegated Officer
<p>Consenting to the provision of information or a document to a court or tribunal as provided under s 25(4)(l).</p>	<p>Legal Aid NSW officers having the management of a matter are authorised to consent to the provision of information or a document to a court or tribunal as provided under s25(4)(l).</p> <p><i>subject to the following exception</i></p>
Exception	
<p>When legal aid has been wholly or partly refused under the Legal Aid NSW merit test.</p>	<p>In regional Local Court criminal matters Solicitor Grade I-III In all other circumstances Solicitor Grade V</p>

2 Divulging information or a document (other than as provided by section 25(4)(k) or (l))

Item	Delegated Officer
<p>To consent to divulging information or a document to a person other than:</p> <ul style="list-style-type: none"> • an applicant for legal aid; or • a legally assisted person. <p>(not including matters under s 25(4)(k) or (l) subject to the provisions of ss 25 and 26.)</p>	<p>Solicitor to Legal Aid NSW Manager Operations Grants Deputy Executive Director Criminal Law Executive Director Civil Law Executive Director Family Law</p>

3 Solicitor on Record - section 28

	Item	Delegated Officer
3.1	<p>Exercising the functions of the CEO under ss 24 and 28, pursuant to an appointment made under s 23A, in relation to in-house legal matters.</p>	Steve O' Connor, Deputy CEO
3.2	<p>Signing documents for a party to the proceedings whereby that signature shall be deemed to be the signature of the solicitor for that party.</p>	Solicitor with the carriage of an in-house matter

4 Grant of money for a specified purpose - section 30

Item	Delegated Officer	
	Certification	Determination
<p>Authorising under s30(2) and (4) funding for a specified purpose, including determining whether ss34 (6)-(8), 41 and 47 are to apply to the provision of the grant of aid.</p> <p>The decision to administer a grant of aid as a section 30 grant can only be made by officers who have the relevant delegation under s 34.</p> <p><i>* Officers cannot exceed the monetary limits set out in the Attorney General's delegation under s12 of the Public Finance and Audit Act 1983 – see Instrument of Financial Delegation at Part 4 .</i></p>	<p>Solicitor Grade I-III</p> <p>Advocate Clerk Grade 6-7</p>	<p>Grants Clerk Grade 5-6</p> <p>Solicitor Grade I-III Grants</p>

5 Application for legal aid - section 31

Item	Delegated Officer	
	Certification	Determination
<p>Exercising discretion to amend an application that is not in an approved manner and form to submit the application for a determination.</p> <p>Note: the power to approve variations to the approved form of applications is reserved by the CEO.</p>	<p>Solicitor Grade IV</p>	<p>Grants Clerk Grade 5-6</p> <p>Solicitor Grade IV Grants</p>

6 Exercising powers under section 33

Item	Delegated Officer		Limit \$
	Certification	Determination	
<p>Exercising powers under s 33 (including payment of solicitor costs, counsel fees and disbursements).</p>	<p>Solicitor Grade I – III, Civil Law</p> <p>Advocate Clerk Grade 6-7</p>	<p>Solicitor Grade I – III Grants</p> <p>Grants Clerk Grade 5-6</p>	<p>Up to 1,500</p>
<p>A s 33 authorisation can be made in a matter where an Officer is authorised to determine under s 34.</p>	<p>Solicitor Grade IV, Civil Law</p> <p>Advocate Clerk Grade 9-10</p>	<p>Grants Clerk Grade 5-6</p> <p>Solicitor Grade IV Grants</p>	<p>2,500</p>
<p><i>* Officers cannot exceed the monetary limits set out in the Attorney General's delegation under s12 of the Public Finance and Audit Act 1983 – see Instrument of Financial Delegation at Part 4 .</i></p>	<p>Solicitor Grade V, Civil Law</p>	<p>Manager Operations</p> <p>Solicitor Grade V Grants</p>	<p>3,000</p>
	<p>Deputy Executive Director Criminal Law</p> <p>Executive Director Civil Law</p> <p>Executive Director Family Law</p>	<p>Director Grants</p>	<p>over 3,000</p>

6A Legal Support Officers certifying limited disbursements under sections 33 and 34 on Grants Online

Item	Certifying Officer	Maximum limit per disbursement (not including counsel's fees)	Maximum limit per matter
Recommending to a determining officer that a disbursement (excluding counsel's fees) be incurred.	Legal Support Officer	\$500	\$1,500

7 Determining and redetermining a grant of legal aid under section 34

	Item	Delegated Officer
7.1	<p>Determining under s 34 an application for legal aid (including granting and refusing legal aid).</p> <p>Approving an application for legal aid that has been certified as meeting merit and policies by an in-house officer holding an appropriate authority and where the Means Test is satisfied.</p> <p><i>* Officers cannot exceed the monetary limits set out in the Attorney General's delegation under s12 of the Public Finance and Audit Act 1983 – see Instrument of Financial Delegation at Part 4.</i></p>	<p>Director Grants</p> <p>Determining Officer Grants Division</p> <p><i>subject to the following exceptions</i></p>
Exceptions		
7.2	Redetermining a refusal or condition of a grant of legal aid under s 34.	The Determining Officer or a Grants Officer of the same or a higher grade with the authority to approve a grant to which the application refers.
7.3	Determining applications for legal aid for matters which fall outside the types of matters for which legal aid is available under the policies of Legal Aid NSW. OR Applications for legal aid for Commonwealth law matters which are not included in the Commonwealth Priorities.	This function has not been delegated.
7.4	Determining applications in relation to matters under Part 7 of the <i>Crimes (Review and Appeal) Act 2007 (NSW)</i> .	This function has not been delegated.
7.5	Determining applications for legal aid by people employed at Legal Aid NSW.	Executive Director Grants and Community Partnerships
7.6	Determining applications for legal aid when it is known that the applicant is a relative or partner of a person employed at Legal Aid NSW.	Executive Director Grants and Community Partnerships

		Certification	Determination
7.7	Determining applications for legal aid for public interests human rights matters (applications are tabled before the Human Rights Consultative Committee which makes recommendations).	Executive Director Civil Law	Director Grants
7.8	Determining applications for legal aid by appellants seeking a severity appeal in criminal proceedings to the District Court.	Solicitor Grade I-III	Manager Operations Solicitor Grade I - III Grants
7.9	Determining applications for legal aid by appellants seeking an all grounds appeal in criminal proceedings to the District Court.	Solicitor Grade I-III	Manager Operations Solicitor Grade I - III Grants
7.10	Determining applications for legal aid by appellants in appeal proceedings other than High Court and points 7.10 and 7.11 above.	Solicitor Grade IV Criminal and Family Law Solicitor Grade V Civil Law	Manager Operations Solicitor Grade I- III Grants
7.11	Determining applications for legal aid for summons matters and other prerogative relief in the Supreme Court in criminal matters.	Solicitor Grade VI	Manager Operations Solicitor Grade V Grants
7.12	Determining applications for legal aid by appellants in criminal appeal proceedings before the High Court.	Solicitor Grade VI	Manager Operations Solicitor Grade VI Grants
7.13	Determining applications for legal aid by appellants in appeal proceedings other than criminal proceedings before the High Court.	Deputy Executive Director Criminal Law Executive Director Family Law Executive Director Civil Law	Manager Operations Solicitor Grade VI Grants
7.14	Determining applications for an originating process in the High Court.	Deputy Executive Director Criminal Law Executive Director Family Law Executive Director Civil Law	Director Grants
7.15	Determining applications in State civil law matters and State family matters where Legal Aid requires a determination as to whether an applicant meets each of the following requirements: <ul style="list-style-type: none"> the applicant is at special disadvantage; exceptional circumstances exist, and the applicant would suffer undue hardship if legal aid was refused. 	Solicitor Grade IV	Solicitor Grade IV Grants Manager Operations
7.16	Determining applications for legal aid in State family law property matters where Legal Aid NSW is satisfied that there are exceptional circumstances.	Solicitor Grade IV	Solicitor Grade IV Grants

7.17	Determining application for duty matters.	In-house solicitor providing the duty service
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7A Approval of expenditure in relation to grants of legal aid

Authorisation levels for incurring solicitor costs, counsel fees and disbursements	Limit for authorisation of expenditure for <u>individual claims</u> for solicitor's professional costs and counsel's fees *However, note monetary limits pursuant to s 33. \$	Limit for authorisation of expenditure for <u>individual claims</u> for disbursements (excluding counsel's fees) *However, note monetary limits pursuant to s 33. \$	Limit for authorisation of expenditure for <u>total claims (accounts)</u> per legal aid application Officers cannot exceed the monetary limits set out in the Attorney General's delegation to staff under s12 of the <i>Public Finance and Audit Act 1983</i> . \$	Certification	Determination
	7,500	1,500	20,000	Solicitor Grade I-III Advocate Clerk Grade 6-7	Grants Clerk Grade 3-4 Solicitor Grade I-III Grants
	10,000	1,500	50,000	Solicitor Grade I-III Advocate Clerk Grade 6-7	Grants Clerk Grade 5-6 Solicitor Grade I-III Grants
	10,000	1,500	75,000	Solicitor Grade I-III Advocate Clerk Grade 6-7	Clerk Grade 7-8 Grants Solicitor Grade I-III Grants
	20,000	3,000	100,000	Advocate Clerk Grade 9-10 Solicitor Grade IV	Solicitor Grade III-IV Grants Manager Operations, Grants
	40,000	6,000	125,000	Senior Advocate Solicitor Grade V	Solicitor Grade IV Grants Manager Operations, Grants

	40,000	8,000	125,000	Deputy Executive Director Criminal Law Executive Director Family Law Executive Director Civil Law	Solicitor Grade VI Grants Director Grants
	40,000	10,000	no upper limit (subject to the A-G's Financial Delegations)	Deputy Chief Executive Officer, Operations	Executive Director, Grants and Community Partnerships

8 Determining and redetermining the date of a grant of legal aid under section 34A

Item		Delegated Officer
8.1	<p>Determining under s 34A that the grant of legal aid is to be dated on or after the date of the initial request for legal aid, being either</p> <ul style="list-style-type: none"> the request for an emergency grant of legal aid; or the date of the receipt of the legal aid application. 	Solicitor Grade V Grants
8.2	<p>Redetermining under s 34A an application for legal aid (including granting and refusing legal aid).</p> <p>Note: The officer granting an application on redetermination may need to be of a higher grade than the officer who originally refused it.</p>	The Determining Officer or a Grants Officer of the same or a higher grade with the authority to approve a grant to which the application refers.

9 Authorising emergency grants of legal aid

Item	Delegated Officer	
	Certification	Determination
The discretion to authorise an emergency grant of legal aid before the legal aid applicant has completed Legal Aid NSW's application form.	Solicitor Grade IV	Grants Officer Grade 5-6 Solicitor Grade IV Grants

10 Implementing the Means Test under section 35

Item	Delegated Officer	
	Certification	Determination
Implementing the Legal Aid NSW Means Test under s 35.	Duty Solicitor	
	In-house solicitor with the carriage of the matter	Determining Officer
<i>subject to the following discretions</i>		
10.1	<p>Exercising discretion in applying the Means Test to grant legal aid when, after calculating the income, the net assessable income of the applicant exceeds the current maximum threshold by up to 10%.</p> <p>Discretion can be exercised taking into account, the following criteria</p> <ul style="list-style-type: none"> the likely costs of proceedings; the overall financial position of the applicant; whether the applicant would suffer hardship if legal aid was refused; or whether there is sufficient time for the applicant to raise the funds necessary to pay for legal assistance. <p>For further information please see Means Test at 7.10.1 on Policy Online</p>	<p>Duty Solicitor</p>
	In-house solicitor with the carriage of the matter	Determining Officer
10.2	<p>Exercising discretion in applying the Means Test to grant legal aid to applicants whose net assessable income exceeds the income eligibility threshold by over 10% and/or does not satisfy the means test.</p> <p>Discretion can be exercised taking into account the following criteria:</p> <ul style="list-style-type: none"> the likely cost of the proceedings; the type of proceedings; the overall financial position of the applicant; whether the applicant would suffer hardship if legal aid was refused; whether there is sufficient time for the applicant to raise the funds necessary to pay for legal assistance; or whether the applicant could reasonably be expected to borrow against assets. <p>*Discretion must only be exercised when the above criteria have been taken into consideration and the officer is satisfied that exceptional circumstances exist. Please see the Means Test for further guidance on exceptional circumstances.</p> <p>Note: where an officer is exercising this discretion and the decision requires a reduction in the initial contribution amount, the officer should be aware that the amount by which the contribution is reduced must be in accordance with the officer's delegation set out under clause 14 (s.36 contributions).</p> <p><i>*Clients may later be required to make a full contribution.</i></p> <p>For further information please see Means Test at 7.10.2 on Policy Online</p>	<p>Solicitor Grade IV</p>
		<p>Manager Operations</p> <p>Solicitor Grade IV Grants</p>

subject to the following discretions, continued			
		Certification	Determination
10.3	Exercising discretion in applying the Means Test to disregard, for elderly applicants, the home equity in excess of the maximum ceiling to grant legal aid and calculate a contribution on assets.	Solicitor Grade IV	Manager Operations Solicitor Grade IV Grants
10.4	<p>Exercising discretion to refuse legal aid to applicants whose income and assets fall within the Means Test.</p> <p>The discretion can be exercised in the following situations:</p> <ul style="list-style-type: none"> • Where the applicant is able to afford the cost of legal proceedings having regard to his/her general assets. • Where the applicant has substantial fixed assets or an interest in a business assets that <ul style="list-style-type: none"> ➢ Could be realisable; and ➢ Against which the applicant could secure a loan to cover the costs of legal proceedings. • Where the applicant's life style or standard of living appears to be supported by means beyond those disclosed in the legal aid application. 	Solicitor Grade IV	Manager Operations Solicitor Grade IV Grants

11 Determining under section 35(1) that the Means Test should *not* apply

Item	Delegated Officer	
	Certification	Determination
<p>Determining under s 35(1) that the Legal Aid NSW Means Test should not be applied because special circumstances exist, about the property or means of the applicant or otherwise.</p> <p>Under s 35(3) special circumstances may include</p> <p>(a) that the applicant is a party to proceedings as a member of an unincorporated association; or</p> <p>(b) the applicant is a party to</p> <ul style="list-style-type: none"> • proceedings relating to environmental matters • a relator suit; or • a test case. 	Deputy Executive Director Criminal Law Executive Director Family Law Executive Director Civil Law	Director Grants

12 Waiving the requirement for verification of means

Item	Delegated Officer	
	Certification	Determination
Exercising the discretion in exceptional circumstances to waive the requirement for verification of means.	Duty Solicitor	
	In-house solicitor with the carriage of the matter	Determining Officer

13 Contributions under section 36(1)(a)

Item		Delegated Officer	
		Certification	Determination
Authorising a contribution payable under s36 (1) (a) of <i>the Act</i> and directing the manner of payment and the due date for payment of the contribution.		In-house solicitor with the carriage of the matter	Determining Officer
13.1	Exercising the discretion in the Means Test to waive or vary the contributions in matters other than criminal matters and matters conducted by the Coronial Inquest Unit.	In-house solicitor with the carriage of the matter	Determining Officer
subject to the following discretions			
13.2	In criminal indictable matters, indictable appeals and District Court severity appeals, exercising the discretion in the Means Test <ul style="list-style-type: none"> To reduce it below the minimum contribution; or to waive the initial contribution. 	Solicitor Grade I-III	Clerk Grade 5-6 Grants Solicitor Grade I-III Grants
13.3	In criminal District Court all grounds appeal exercising the discretion in the Means Test <ul style="list-style-type: none"> to reduce it below the minimum contribution; or to waive the initial contribution. 	Solicitor Grade I-III	Clerk Grade 5-6 Grants Solicitor Grade I-III Grants
13.4	In defended Local Court criminal matters, where the total assessed contribution does not exceed \$225 exercising the discretion in the Means Test to waive or reduce the contribution.	Solicitor Grade I-III	Clerk Grade 5-6 Grants Solicitor Grade I-III Grants
13.5	In defended Local Court criminal matters, where the total assessed contribution is \$225 or more, exercising the discretion in the Means Test to waive or reduce the contribution.	Solicitor Grade IV	Manager Operations Solicitor Grade IV Grants
13.6	In relation to grants of legal aid in matters conducted by the Coronial Inquest Unit, the discretion to waive or decrease the initial contribution in matters where there is a public interest component in the granting of aid.	Executive Director Civil Law	Director Grants

14 Amounts by which a contribution under section 36 can be varied or waived prior to finalisation of a matter

Amount by which an officer can recommend or approve varying (increasing or reducing) or waiving a s 36 contribution		Delegated Officer	
		Certification	Determination
14.1	Up to \$1,500	Solicitor Grade I-III	Clerk Grade 3-4 Grants Solicitor Grade I-III Grants
14.2	Up to \$3000	Solicitor Grade I-III	Clerk Grade 5-6 Grants Solicitor Grade I-III Grants
14.3	Up to \$5000	Solicitor Grade V	Solicitor Grade IV Grants

14.4	Up to \$10,000	Solicitor Grade VI	Manager Operations
14.5	Up to \$20,000	Executive Director Criminal Law Executive Director Family Law Executive Director Civil Law	Director Grants
14.6	Over \$20,000	CEO	Director Grants

15 Applications for legal aid by certain persons under section 37

Item	Delegated Officer
Determining applications for legal aid from certain persons described in s 37(1).	Determining Officer

16 Varying grants of legal aid under section 38

Item	Delegated Officer
Varying a grant of legal aid under section 38, including altering the nature and extent of grants and altering conditions. Note: Terminating grants of legal aid is excluded from this delegation.	An officer with the delegation under s34 to approve a grant of the amount or scope of the varied grant.

17 Terminating grants of legal aid under section 38(1)(a)

Item	Delegated Officer	
	Certification	Determination
Terminating a grant of legal aid under s 38(1)(a).	Solicitor Grade IV	Clerk Grade 5-6 Grants Solicitor Grade IV Grants

18 Approving the number of reading and preparation days in criminal matters

Approving the number of reading and preparation days in criminal matters		Delegated Officer	
		Certification	Determination
18.1	Up to 2 days for reading and preparation time.	Solicitor Grade I-III	Clerk Grade 3-4 Grants Solicitor Grade I-III Grants
18.2	Up to 4 days for reading and preparation time.	Solicitor Grade IV	Clerk Grade 5-6 Grants Solicitor Grade IV Grants
18.3	Up to 5 days reading and preparation time.	Solicitor in Charge, Regional Office Solicitor Grade V	Manager Operations Solicitor Grade V Grants
18.4	Up to 7 days for reading and preparation time.	Solicitor Grade VI	Manager Operations Solicitor Grade VI Grants
18.5	Up to 10 days for reading and preparation time.	Executive Director Criminal Law	Director Grants

Note: Please refer to the Chief Executive Officer, if approval over 10 days is required.

19 Making certain decisions about costs and moneys under sections 40, 41, 43, 43A, 43B, 44 & 45

Item		Delegated Officer
19.1	Requiring a private legal practitioner acting for a legally assisted person to assess or tax costs under s 40.	Clerk Grade 5-6 Grants Solicitor Grade I-III Grants
19.2	Giving approval under s 41 to a private legal practitioner to demand and receive payments from a legally assisted person or any other person on behalf of a legally assisted person.	Director Grants
19.3	Determining whether an application is to be made to a Court or Tribunal for orders for the payment of costs by a legally assisted person under s 43.	Director Grants Executive Director Criminal Law Executive Director Civil Law Executive Director Family Law
19.4	Deferring under s 43A(1)(a) the payment of costs to a private legal practitioner pending the recovery of party/party costs.	Solicitor Grade I-III Grants Clerk Grade 5-6 Grants
19.5	Deferring under s 43A(1)(b) and (c) payment of costs to a private legal practitioner until the conclusion of any official investigation or the completion of any criminal or disciplinary proceedings.	Director Grants

19.6	Refusing under s 43A(2) to make payment of any fees to a private legal practitioner if any allegation referred to in s 43A(1)(b) is substantiated in any criminal or disciplinary proceedings.	Director Grants
19.7	Approving an application under s 43B to a court/tribunal for an order that a panel practitioner repays money to Legal Aid NSW.	Director Grants
19.8	Directing under s 44 a legally assisted person to pay moneys to Legal Aid NSW and to account for those moneys.	Solicitor Grade IV Grants Clerk Grade 5-6 Grants
19.9	Directing under s 45 a legally assisted person to assign his/her right to recover moneys and to recover moneys where the right to recover moneys has been assigned to Legal Aid NSW.	In-house solicitor with carriage of the matter Clerk Grade 3-4 Grants Solicitor Grade I-III Grants Solicitor Grade IV Accounts Receivable

20 Determining under section 46 the liability of a legal assisted person to pay costs

Determining under s 46 the liability of a legally assisted person to pay costs and disbursements and directing the due date for payment of the contribution.		Delegated Officer	
		Certification	Determination
20.1	Where the policy of Legal Aid NSW is being implemented.	In-house solicitor with carriage of the matter	Determining Officer
20.2	When applying the contribution policy it is considered appropriate, in exceptional circumstances, to reduce or waive a contribution.	Solicitor Grade V Solicitor in Charge, Regional Office	Manager Operations

21 Amounts by which a contribution under section 46 can be waived or reduced

The amount by which an officer can recommend or approve reducing or waiving a s.46 contribution		Delegated Officer	
		Certification	Determination
21.1	Up to \$10,000	Solicitor-in-Charge (Regional Office) Solicitor Grade V	Solicitor Grade IV Grants
21.2	Up to \$20,000	Executive Director Criminal Law Executive Director Civil Law Executive Director Family Law	Manager Operations Solicitor Grade VI Grants
21.3	Over \$20,000	CEO	Director Grants

22 Determining payment of costs awarded against a legally assisted person under section 47

Item		Delegated Officer	
		Certification	Determination
Recommending and authorising payment by Legal Aid NSW under s 47 of costs awarded against legally assisted persons (including the determination as to whether party/party costs are reasonable).		Advocate Clerk Grade 6-7 Solicitor Grade I –III, Civil Law Solicitor Grade IV, Criminal Law Solicitor Grade VI, Family Law	Clerk Grade 5-6 Grants Solicitor Grade I-III Grants
Exceptions			
22.1	Determining costs in Veterans' Advocacy matters where the costs exceed Legal Aid NSW's current monetary limit under s 47.	Advocate Clerk Grade 9-10	Manager Operations
22.2	Determining what costs, if any, are to be paid in matters covered by s 47(4) or (4A).	Executive Director Criminal Law Executive Director Civil Law Executive Director Family Law	Director Grants

23 Establishing a selection Committee to appoint private practitioners to panels under section 51(2)

Item	Delegated Officer
Establishing a selection Committee for the purpose of appointing private legal practitioners to panels.	Director Grants

24 Authorising private practitioner panel service agreements under section 52

Item	Delegated Officer
Endorsing service agreements between panel legal practitioners and Legal Aid NSW.	Director Grants

25 Audits of private legal practitioners under section 52B

Item	Delegated Officer
Carrying out audits on behalf of Legal Aid NSW under s 52B.	Solicitor Grade I-III Grants Clerk Grade 3-4 Grants

26 Discretion to assign a matter to a non panel private practitioner

Item	Delegated Officer	
	Certification	Determination
Assigning a matter to a practitioner who is not: <ul style="list-style-type: none"> • on a panel; or • a panel practitioner to which the matter would normally be assigned under the Grant Allocation Guidelines 	Solicitor Grade IV	Manager Operations

27 Signing and Withdrawing Caveats

Item	Delegated Officer
Signing Caveats and Withdrawals of Caveats on behalf of Legal Aid NSW.	Solicitor Grade IV Accounts Receivable Solicitor Grade IV Legal & Policy Branch Solicitor to Legal Aid NSW

28 Consenting to dealings on the property

Item	Delegated Officer
Consenting to priority over Legal Aid NSW's caveatable interest over real property.	Solicitor Grade IV Accounts Receivable Solicitor Grade IV Legal & Policy Branch Solicitor to Legal Aid NSW Executive Director Finance

29 Management of debts

Item	Delegated Officer
The management of recovery action for debts owed to Legal Aid NSW including but not limited to: <ul style="list-style-type: none"> • issuing of a bankruptcy Notice or subsequent bankruptcy proceedings; • issuing a Statement of Claim; • the enforcement of a writ on real property ; • undertaking an Examination Summons; and • seeking a Garnishee Order. 	Executive Director Finance Solicitor to Legal Aid NSW
Signing legal documents on behalf of the Solicitor to Legal Aid NSW for matters to which Legal Aid NSW is a party.	Solicitor IV Accounts Receivable Solicitor IV Legal & Policy Branch

30 Negotiated settlement

Item		Delegated Officer
30.1	<p>Discretion to enter into a negotiated settlement on behalf of Legal Aid NSW with respect to a debt owed to Legal Aid NSW by a client limited to negotiating settlement during representation in a court.</p> <p>In negotiating a settlement in which an agreement is reached to reduce the amount the client will pay to Legal Aid NSW in full and final settlement of the debt, the officer must have regard to any relevant Treasurer's Directions issued under s9 of the <i>Public Finance and Audit Act</i>.</p>	<p>Solicitor Grade IV Accounts Receivable</p> <p>Solicitor Grade IV Legal & Policy Branch</p>
30.2	<p>Discretion to enter into a negotiated settlement on behalf of Legal Aid NSW with respect to a debt owed to it by a client.</p> <p>In negotiating a settlement in which an agreement is reached to reduce the amount the client will pay to Legal Aid NSW in full and final settlement of the debt, the officer must have regard to any relevant Treasurer's Directions issued under s9 of the <i>Public Finance and Audit Act</i>.</p>	<p>Up to \$50,000</p> <p>Executive Director Finance</p>

31 Exercising a lien under section 48

Item	Delegated Officer
Exercising a lien by Legal Aid NSW under s 48 on documents held for proceedings which are the subject of an in-house grant of legal aid.	Solicitor Grade I –III <i>subject to the following exception</i>
Exception	
Deciding whether a lien is to be exercised by Legal Aid NSW under s 48 on documents held for proceedings in an in-house matter where there has been a refusal by Legal Aid NSW to release papers <i>after</i> negotiations and an agreement cannot be reached.	Director Grants Executive Director Criminal Law Executive Director Civil Law Executive Director Family Law

32 Administration of a Trust Account under section 64A

Item	Delegated Officer
Administering a Trust Account established under s 64A and holding all monies received for or on behalf of any legally assisted person in the Account.	Brian Sandland, Executive Director Criminal Law

33 Approving payment of fees and disbursements that exceed Legal Aid NSW fee scales

Item	Delegated Officer
<p>To approve payments to private legal practitioners or other providers of legal services, including:</p> <ul style="list-style-type: none"> • solicitors costs; • counsel's fees; and/or • disbursements <p>which exceed the Legal Aid NSW scale of fees. <i>*This does not include lump sum payments which cannot be exceeded, except as follows</i></p>	<p>Solicitor Grade IV Grants</p> <p>Manager Operations</p>
Exception	
<p>Approving private legal practitioner fees which exceed the lump sum scale in criminal case conferencing. The discretion to approve legal practitioner fees which exceed the lump sum scale in:</p> <ul style="list-style-type: none"> • Local Court Committal • District Court sentence matters • Supreme Court sentence matters 	<p>Director Grants</p>

34 Authority to private practitioners providing duty services

Item	Delegated Officer
<p>Authority for private practitioners rostered on to a Duty Solicitor Scheme to</p> <ul style="list-style-type: none"> • make determinations of applications for legal aid to provide a legal service under the Duty Solicitor Scheme, and • exercise the discretion in relation to means in 10.1 when providing that service, and • exercise the discretion to waive the verification of means in special circumstances. 	<p>Private practitioners approved by the Director Grants</p>

ATTACHMENT A

The Chief Executive Officer retains the following functions under the Act:

1. Decisions under section 34

Applications for legal aid for matters which fall outside the policies - State matters and Commonwealth law matters not included in the Commonwealth Priorities. This includes applications for legal aid for proceedings under the *Extradition Act 1988*.

Applications for aid in relation to matters under Part 7 of the *Crimes (Review and Appeal) Act 2007* (NSW).

2. Decisions under section 51

Appointment of, or refusal to appoint a legal practitioner to a panel following assessment and recommendation by a selection committee.

3. Decisions under section 52A

Establishing a monitoring Committee under s 52A (1).

Exercising the discretion to remove a legal practitioner from a panel for breach of service agreement set out in s 52A (6) following a recommendation by the Monitoring Committee.

4. Decisions under section 52B(11)

To do any one or more of the following, if a private legal practitioner fails or refuses to co-operate in the carrying out of an audit under this section:

- (a) terminate the services of the practitioner in relation to any work assigned by Legal Aid NSW to the practitioner;
- (b) remove the practitioner from a panel to which the practitioner is appointed; and
- (c) refuse to pay to the practitioner any money payable by Legal Aid NSW to the practitioner.

5. Prosecutions under sections 26 and 32

Decisions to prosecute under sections 26 and 31.

7. Other functions

Any other function that is not specifically delegated in writing.