MENTAL HEALTH ADVOCACY PANEL

Information for Applicants

This document provides information for the following lawyers who wish to apply for appointment to the Mental Health Advocacy 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.

The panel covers matters brought under the Mental Health Act 2007, the Mental Health (Forensic Provisions) Act 1990, the Drug and Alcohol Treatment Act 2007, the NSW Trustee and Guardian Act 2009 and the Guardianship Act 1987.

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.

GENERAL INFORMATION

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

Lawyers appointed to the panel are:

- Appointed for a period of up to 5 years. Appointments to the panel apply to individual lawyers and not to firms.

- Required, as a condition of appointment, to enter into service provision agreements with Legal Aid NSW.

Lawyers who are appointed to the panel will be eligible to perform the role of duty lawyer and receive grants of aid in assigned case matters.

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.

The panel is for the direct legal representation of legally aided clients.

Barristers may be appointed to the panel to directly represent legally assisted clients in matters covered by the panel. For direct representation matters, barristers must ensure compliance with the Legal Profession Uniform Conduct (Barristers) Rules, in particular Rule 22.

Where a barrister appointed to the panel receives an offer of an assignment on a direct access basis from Legal Aid NSW, the barrister may decline to accept the assignment if it is inappropriate to do the work without the involvement of an instructing solicitor.

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

DUTY WORK

Applicants who are appointed to the panel may be eligible to undertake duty work.

Inclusion on a duty roster will depend upon the service delivery needs of individual Courts and tribunals and satisfactorily addressing the selection criteria will not automatically result in inclusion on a duty roster.

Any enquires about the duty lawyer scheme and/or inclusion on a duty roster contact the Legal Aid NSW Mental Health Advocacy Service on (02) 9745 4277.
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.

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:
  o Address the Selection Criteria For Current Panel Members; and
  o 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)

2. **Is your certificate subject to any conditions or undertakings?**
   
   If yes, please provide details.
3. Approximately how many hours a week have you spent in Mental Health Advocacy matters in the past 2 yrs.

4. Demonstrated capacity to comply with the Legal Aid NSW Mental Health Advocacy Practice Standards.

Provide examples to demonstrate your capacity to comply with the 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 practice standards is available to be viewed or downloaded at Practice standards in legally aided matters webpage.

5. 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.

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. Is your certificate subject to any conditions or undertakings?

   If yes, please provide details.

3. What was your date of admission and how many of years have you practised as a solicitor or barrister?

4. Experience in the preparation and/or conduct of matters under the Mental Health Act 2007 or the Mental Health (Forensic Provisions) Act 1990 or the NSW Trustee and Guardian Act 2009 or the Guardianship Act 1987 or the Drug and Alcohol Treatment Act 2007.
Provide an outline of experience in preparing and/or conducting mental health matters. This may include examples from practice, delivery of conference papers or presentations, or drafting of policy submissions or advices.

5. **Demonstrated capacity to act as an effective advocate in a high volume/high pressure court/mental health facility environment.**

Provide an outline of litigation experience in any court/mental health facility environment including duty experience.

6. **Demonstrated knowledge and understanding of the Mental Health Act 2007 or the Mental Health (Forensic Provisions) Act 1990 or the NSW Trustee and Guardian Act 2009 or the Guardianship Act 1987 or the Drug and Alcohol Treatment Act 2007, as it applies to mental health advocacy.** (250 word limit)

Provide an outline of your knowledge and understanding of the relevant legislation. This may include examples from your practice.

7. **Demonstrated capacity to comply with the Legal Aid NSW Mental Health Advocacy Practice Standards.**

Indicate whether you are aware of the Legal Aid NSW Mental Health Advocacy practice standards and will comply with those practice standards.

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

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

Indicate your capacity to comply with Legal Aid NSW reporting and administrative requirements including compliance with the [Terms and Conditions of Use of Grants Online](#).

9. **Give examples of your experience in dealing with legal issues facing socially and economically disadvantaged people and people with a disability.** (maximum of 500 words)

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

Provide the names and e-mail addresses of two referees who can attest to demonstrated relevant experience and the capacity to act as an effective advocate.

It is recommended that your referees be legally qualified.
Your referees should be independent. They should not be employed by or have a commercial interest in the firm where you are currently employed.

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 may 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 may 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.

### ADDITIONAL INFORMATION AND DISCLOSURES

All applicants must 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
   - 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 (NSW)?**

   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.

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

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.

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 Civil Law, a nominee of the Director Grants, a nominee of the Law Society of New South Wales, and a nominee of The New South Wales Bar Association.

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.